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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. ~~[illegible]~~ 14

H. J. SPRINGFIELD, C. E. STANLEY AND C. C. SNYDER, PLAINTIFFS IN ERROR,

vs.

GEORGE H. THOMAS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TENNESSEE.

FILED OCTOBER 13, 1885.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1887.

No. 388.

H. J. SPRINGFIELD, C. E. STANLEY AND C. C. SNYDER, PLAINTIFFS IN ERROR,

vs.

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IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TENNESSEE.

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1 Transcript of the record in the case of George H. Thomas *vs.* H. J. Springfield, C. E. Stanley, and C. C. Snyder, in the circuit court of the United States for the southern division of the eastern district of Tennessee.

Prosecution Bond.

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEORGE H. THOMAS

vs.

H. J. SPRINGFIELD, CHARLES E. STANLEY, & CHARLES C. SNYDER.

Know all men by these presents that we, Geo. H. Thomas, Wheeler & Marshall, & Elder & White, are held and firmly bound unto H. J. Springfield, Charles E. Stanley, & Charles C. Snyder in the penal sum of two hundred & fifty dollars; to the payment whereof we bind ourselves and each of us and each and every of our
2 several heirs, executors, and administrators, jointly and severally, firmly by these presents.

Witness our hands on this the 14 day of March, 1884.

The condition of this bond is such that the said Geo. H. Thomas has this day commenced suit against H. J. Springfield, Charles E. Stanley, & Charles C. Snyder for ten thousand dollars damages:

Now, if the said Geo. H. Thomas shall prosecute said suit with effect or, on failure thereof, pay and satisfy all costs that may be adjudged against said plaintiff in said cause; or, on failure of said defendant, if convicted, to pay and satisfy said costs, if the said plaintiff shall pay the same, then this bond to be void; otherwise to remain in full force and virtue.

GEO. H. THOMAS, [SEAL.]
By att'y, GEO. I. WHITE.
WHEELER & MARSHALL. [SEAL.]
ELDER & WHITE. [SEAL.]

Attest:
W. G. McADOO, JR., *Deputy Clerk.*

3 Endorsed: No. 74. Geo. H. Thomas *versus* H. J. Springfield *et al.* Prosecution bond. Filed 14th day of M'ch, 1884. A. R. Humes, clerk, by W. G. McAdoo, Jr., D. C.

Summons.

The President of the United States of America to the marshal of the eastern district of Tennessee, Greeting:

You are hereby commanded to summon H. J. Springfield, Charles E. Stanley, and Charles C. Snyder, if to be found in your district, to be and appear before the judges of the circuit court of the United States, in the sixth circuit, for the southern division of the eastern

district of Tennessee, at the Federal court-rooms in Chattanooga, in said State, on the first Monday in April next, then and there to answer George H. Thomas in an action to his damage ten
4 thousand dollars. Herein fail not, and have you then and there this writ.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at Chattanooga, in the said district, the 14th day of M'ch, in the year of our Lord 1884, and of our Independence 108th.

[SEAL.]

A. R. HUMES, *Clerk*,
By W. G. McADOO, JR.,
Deputy Clerk.

Endorsed: No. 74. George H. Thomas *versus* H. J. Springfield, Chas. E. Stanley, Chas. C. Snyder. Summons. This summons was issued on the 14th day of March, 1884. A. R. Humes, clerk, by W. G. McAdoo, Jr., D. C. Wheeler & M., Elder & W., attorneys, Hamilton county.

Marshal's costs—officer, S. M. Rasar:

3 summons, @ $2	6 00
3 copies summons, at	3 00
Total	$9 00

Filed Mar. 17, 1884.

A. R. HUMES,
Clerk U. S. Cir. Ct.

5 Came to hand same day issued, and executed as within commanded, by reading and making known the contents of the within writ and delivering a copy of the same to Chas. E. Stanley and Chas. C. Snyder on March 14th, 1884, and on H. J. Springfield on March 17th, 1884, all in Chattanooga, Tenn., this March 17th, 1884.

S. M. RASAR,
Deputy U. S. Marshall.

Declaration.

United States Circuit Court for the Southern Division of the Eastern District of Tennessee. April Term, 1884.

GEORGE H. THOMAS *vs.* H. J. SPRINGFIELD *et als.*

1st count. Plaintiff, who is now and was at the commencement of this suit a citizen and a resident of the State of Florida, sues the defendants, H. J. Springfield, Charles E. Stanley, and Charles
6 C. Snyder, who now are and were at the commencement of this action citizens and residents of the State of Tennessee, & are in court by summons for ten thousand dollars as damages for maliciously and illegally arresting and imprisoning him or causing

him to be arrested and imprisoned for ten days from the 1st day of September, 1883.

2nd count. The plaintiff sues the defendants for other ten thousand dollars, because on the 1st day of September, 1883, in Chattanooga, Tennessee, the defendants wantonly, maliciously, illegally, & without probable cause arrested or caused him, the plaintiff, to be arrested and carried to the common jail of Hamilton county, Tennessee, where he was searched, his person exposed and examined, his trunk and private property and effects entered and
7 overhauled, and great indignities heaped upon him, after which he was illegally and maliciously thrust into jail and imprisoned with felons and criminals of all grades, and illegally and maliciously imprisoned and restrained of his liberty for a long space of time, to wit, for ten days, from September 1st, 1883, for the wicked, illegal, fraudulent, and unjust purpose of obtaining money from him or others by means of such illegal arrest and detention; and in pursuance of said fraudulent and illegal purpose and intent to extort money from him, the plaintiff, the said defendants falsely accused him of being guilty of crimes in the States of Florida & Missouri, and represented to him that he was accused of high
8 crimes in those States, and that the authorities of those States were in search of him and had offered large rewards for him, and that the said defendant Snyder was a detective, and unless he, plaintiff, would pay them a large sum of money, to wit, five hundred dollars, they, the defendants, would forcibly and against his will carry plaintiff to the State of Missouri; all of which said charges and statements so made by defendants to plaintiff were false and known by defendants to be false, and made by them to frighten him into paying them hush-money. The said defendants so imprisoned and incarcerated him in said jail-house that he was not allowed to see his friends and attorneys and counselors at law, and refused to allow him to see and have an interview with his legal counsel and friends,
9 notwithstanding his friends and legal counsel made every effort to see him and tendered to the defendants a five-thousand-dollar bail bond for his appearance, which was refused; and to prevent him from seeing his counsel, attorneys, and friends, and to carry out their fraudulent and illegal purpose of extorting money from him, they, the defendants, in disobedience and violation of an original writ of "*habeas corpus*" sued out for his benefit, spirited him away from said jail and illegally & maliciously carried him a prisoner into the State of Georgia, where, to evade and avoid the effect of said writ of *habeas corpus*, he was hid away from those who were trying to effect his release and kept guarded, part of the time
10 in irons, when and where to more effectually conceal him he was made to dress and appear in female attire, and many other great indignities were heaped upon him, and he was caused to greatly suffer, mentally and physically, to his damage ten thousand dollars; wherefore he sues.

3rd count. The plaintiff sues the defendants for other ten thousand dollars damages and penalties because, on the 1st day of September, 1883, in Chattanooga, Tennessee, the said defendants illegally and

maliciously arrested or caused him, the plaintiff, to be arrested and thrust into the common jail of Hamilton county, Tennessee; and being so in said jail in Chattanooga, Tennessee, illegally restrained of his liberty by the defendants, on the 6th day of September, 1883,
11 a writ of *habeas corpus* was legally sued out before and issued by the Hon. D. C. Trewitt, judge of the 4th judicial circuit court of the State of Tennessee, & being circuit court judge, in behalf of plaintiff and seeking to have him released from his illegal restraint. Said original writ of *habeas corpus* commanded, ordered, and required the said defendants to produce and bring the body of plaintiff before him, the Hon. D. C. Trewitt, at the court-house, in Chattanooga, Tennessee, on Saturday, September 8th, 1883, in order that the cause of his restraint might be inquired into. The said original writ of *habeas corpus* was legally served on the defendants and they had full knowledge of its requirements and provisions and knew that it had been applied for before it was granted.
12 The said circuit judge, the Hon. D. C. Trewitt, had jurisdiction of such matters, and the said writ was lawfully issued and legally executed and was valid and in every way possessed of legal efficacy. Yet the said defendants willfully and knowingly, intentionally and illegally, wholly disregarded and disobeyed said writ of *habeas corpus* and the command and the order of the said Hon. D. C. Trewitt, expressed in said writ of *habeas corpus*, to bring and to have the body of plaintiff before the said Hon. D. C. Trewitt, and refused and neglected to produce the body of plaintiff as ordered, though he was in their power and it was their legal duty to do so; but, on the contrary, they, the said defendants, for the purpose of evading,
13 eluding, and avoiding the force and effect of said writ of *habeas corpus* and to prevent plaintiff's release from his illegal imprisonment and to keep him in their power, custody, and control and extort money from him, carried or caused plaintiff to be carried a prisoner, being illegally restrained of his liberty, from the jail of Hamilton county, Tennessee, on the said 6th day of September, 1883, out of the jurisdiction of the court presided over by the Hon. D. C. Trewitt, to wit, to the State of Georgia and elsewhere, where they held him as a prisoner, part of the time in irons, part of the time dressed as a woman, and all the time they guarded him and otherwise abused, defrauded, frightened, imposed upon, and ill-
14 treated him, and finally hauled him off at midnight and shipped him out of the country. All of these acts were done by the defendants, all of whom confederated and conspired together for the same end and to do the wrong and injuries herein complained of in open defiance and utter disregard and disobedience of the said original writ of *habeas corpus* and repeated orders of the said Hon. D. C. Trewitt requiring, commanding, and ordering them to bring him, the plaintiff, before the court, and in utter contempt of the process of said court. Plaintiff was forced to pay out large sums of money to procure his release and incurred heavy expenses in various ways in effecting his release from the custody of de-
15 fendants and he suffered great mental anguish and physical pains. His arrest was published in many of the leading

newspapers of the day, and he was greatly damaged and injured in mind, body, character, reputation, and actual money paid out—in all, the sum of ten thousand dollars; wherefore he sues and demands a jury to try the issues tendered in this declaration.

WHEELER & MARSHALL &
ELDER & WHITE,
Att'ys for Pl'f.

Endorsed: No. 74. Declaration. Geo. H. Thomas *vs.* H. J. Springfield *et al.* Filed 8th day of April, 1884. W. G. McAdoo, Jr., deputy clerk. Wheeler & Marshall & Elder & White, attorneys for pl'f.

Pleas of Def'ts Stanley & Springfield to 1st and 2d Counts of Declaration.

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee

GEORGE H. THOMAS *vs.* H. J. SPRINGFIELD *et al.*

16 And now come the defendants, H. J. Springfield and Charles E. Stanley, by their attorneys, and for plea to the first and second counts of the plaintiff's declaration say they are not guilty of the matters complained of against them by said first and second counts of said declaration, and of this they put themselves on the country.

DE WITT, SHEPHERD & FRAZIER, *Attorneys.*

And plaintiff doth the like.

WHEELER & MARSHALL AND
ELDER & WHITE, *Att'ys for Pl'f.*

Endorsed: Plea to 1st & 2nd counts. George H. Thomas *vs.* H. J. Springfield *et al.* Filed Apr. 9th, 1884. A. R. Humes, clerk U. S. c'r- c't. De Witt, Shepherd & Frazier, attorneys.

Pleas of Def't Snyder to 1st & 2nd Counts of Declaration.

17 In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEO. H. THOMAS

vs.

H. J. SPRINGFIELD, CHARLES E. STANLEY, and CHARLES C. SNYDER.

And now comes the defendant, Chas. C. Snyder, by his attorneys, and for plea to the first count in plaintiff's declaration says he is not guilty of the wrongs and injuries therein alleged, and of this he puts himself upon the country; and to the second count of plaintiff's declaration says he is not guilty of the wrongs and injuries complained of against him by said count of the declaration, and of this he puts himself upon the country.

CASE & LATIMORE, *Att'ys.*

Plaintiff doth the like.

WHEELER & MARSHALL &
ELDER & WHITE, *Att'ys for Pl'f.*

Endorsed: Damages. No. 74. Geo. H. Thomas *vs.* H. J. Springfield *et als.* Pleas of Chas. C. Snyder. Filed April 17th, 1884. H. G. McAdoo, deputy clerk.

18 *Demurrer of Def'ts Stanley & Springfield to 3rd Count of Decl.*

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEORGE H. THOMAS *vs.* H. J. SPRINGFIELD *et al.*

And now come the defendants, H. J. Springfield and Charles E. Stanley, and, by protestation, not confessing any of the matters contained in the third count of plaintiff's declaration to be true as therein set forth, say they ought not to be required to make any answer or defense to said third count except by demurrer, and they do demur thereto and set down the following causes of demurrer, viz:

1st. Said third count discloses no cause of action against these defendants.

2nd. There is a misjoinder of causes of action, in this, that
19 the first and second counts proceed against the defendants for an alleged false arrest and imprisonment of the plaintiff, and the third count is an action for the penalty proscribed by the statu-e of Tennessee, Code, 3754, for disobedience of the writ of *habeas corpus*, which said separate and distinct causes of action may not lawfully be joined in the same declaration.

3rd. Said section 3754 of the Code of Tennessee is a penal statute, and the penalties and damages therein prescribed can only be enforced and recovered by action in the State courts of the State of Tennessee, and this honorable court has no jurisdiction to entertain a suit predicated upon said section of the code.

4th. Said third count of the plaintiff's declaration is an
20 attempt to recover damages on the ground and by reason of an alleged contempt of the circuit court of Hamilton county, Tennessee, and of the orders of the Hon. D. C. Trewitt, judge of said circuit court. The facts alleged constitute no ground of action, and besides the remedy of the plaintiff, if he has any, is in the circuit court against which the contempt is alleged to have been committed.

5th. Said third count is also an attempt to join an action for an alleged libel with the action for false imprisonment, &c.

For these causes said defendants demur to said third count and pray judgment, &c.

DE WITT, SHEPHERD & FRAZIER,
Attorneys, &c.

Endorsed: Damages. No. 74. Demurrer. 3rd count. George H. Thomas *vs.* H. J. Springfield *et al.* Filed Apr. 9, 1884.
21 A. R. Humes, clerk U. S. cr. ct. De Witt, Shepherd & Frazier, att'ys.

Demurrer of Def't Snyder to 3rd Count of Declaration.

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEO. H. THOMAS *vs.* H. J. SPRINGFIELD *et al.*

And now comes the def't, Chas. C. Snyder, and, by protestation, not confessing any of the matters contained in the third count of plaintiff's declaration to be true as therein stated, says he ought not to be required to make any answer or defense to said third count except by demurrer, and he does demur thereto and assigns the following grounds of demurrer, viz:

1st. Said third count discloses no cause of action against this defendant.

22 2nd. There is a misjoinder of causes of action, in this, that the first and second counts proceed against the defendant for an alleged false imprisonment and arrest of the plaintiff, and the third count is an action for the penalty prescribed by the statutes of Tennessee, Code, 3754, for disobedience of the writ of *habeas corpus*, which said separate and distinct causes of action may not lawfully be joined in the same declaration.

3rd. Said section 3754 of the Code of Tennessee is a penal statute, and the penalties and damages therein prescribed can only be enforced and recovered by action in the State courts of the State of Tennessee, and this honorable court has no jurisdiction to entertain a suit predicated upon said section of the code.

23 4th. Said third count of plaintiff's declaration is an attempt to recover damages on the ground and by reason of an alleged contempt of the circuit court of Hamilton county, Tennessee, and of the orders of the Hon. D. C. Trewitt, judge of said circuit court. The facts alleged constitute no ground of action, and, besides, the remedy of the plaintiff, if he has any, is in the circuit court against which the contempt is alleged to have been committed.

5th. Said third count is also an attempt to join an action for an alleged libel with the action for false imprisonment.

For these causes said defendant demurs to said third count and prays judgment, &c.

CASE & LATTIMORE, *Att'ys.*

Endorsed: Damages. No. 74. Geo. H. Thomas *vs.* H. J.
24 Springfield *et als.* Demurrer of def't C. C. Snyder. Filed April 17th, 1884. W. G. McAdoo, Jr., deputy clerk.

Be it remembered that at a circuit court of the United States begun and held for the southern division of the eastern district of Tennessee, at the court-house, in the city of Chattanooga, within said

district and the sixth circuit, on the first Monday, it being the 7th day of April, A. D. 1884—present and presiding, the Honorable D. M. Key, judge of the United States district court for the eastern and middle districts of Tennesse—the following proceedings were had, to wit

THURSDAY MORNING, *April 17th*, 1884.

Court met pursuant to adjournment.

Present and presiding: The Honorable John Baxter, judge
25 of the United States circuit court for the sixth judicial circuit, and the Honorable D. M. Key, judge of the United States district court for the eastern and middle districts of Tennessee.

Order Sustaining Demurrer and Amending Declaration.

GEORGE H. THOMAS
vs.
H. J. SPRINGFIELD *et als.* } No. 74.

Damages.

The demurrer of the defendants to the third count of the declaration coming on for hearing and being understood by the court, the court is of the opinion that said demurrer is well taken and sustains the same.

Thereupon, on application of plaintiff, the court grants him leave to amend his declaration so as to charge upon its face the residence & citizenship of the plaintiff and defendants and also to insert in the third line of third page of said declaration, in the second
26 count, after the word "defendants," the expression "in disobedience and violation of an original writ of *habeas corpus* sued out for his benefit," and on the third page, in the fifth line, after the word "when," this expression, "to evade and avoid the effect of said writ of *habeas corpus*," which is done by making the insertions at the proper place in the declaration.

Be it remembered that at a circuit court of the United States began and held for the southern division of the eastern district of Tennessee, at the court-house, in the city of Chattanooga, within said district and the sixth circuit, on the first Monday, it being the 6th day of October, A. D. 1884—present & presiding, the Hon. D. M. Key, judge of the United States district court for the eastern
27 and middle districts of Tennessee—the following proceedings were had, to wit:

TUESDAY MORNING, *October 7th*, 1884.

Court met pursuant to adjournment.

Present and presiding: The Honorable John Baxter, judge of the United States circuit court for the sixth judicial circuit, and the Honorable D. M. Key, judge of the United States district court for the eastern and middle districts of Tennessee.

GEORGE H. THOMAS
vs.
H. J. SPRINGFIELD, C. E. STANLEY, & C. C. SNYDER. } No. 74.

Damages.

Came the parties, by their attorneys and also came the following jury, to wit, H. M. Collins, Tillman Copeland, Thomas Henson, S. M. Young, Fred. A. Hambright, Edly Anderson, John Gouldy,
28 Sr., Daniel McDowell, Jesse Hall, Jno. T. Marromore, Ephraim Brown, C. L. Matlock, good and lawful men, citizens and freeholders of the southern division of the eastern district of Tennessee, who, being duly elected, tried, and sworn to try the issues joined between the parties, are from rendering a verdict respited until to-morrow.

WEDNESDAY MORNING, *October 8th*, 1884.

Court met pursuant to adjournment.

Present and presiding: The Honorable John Baxter, judge of the United States circuit court for the sixth judicial circuit, and the Honorable D. M. Key, judge of the United States district court for the eastern and middle districts of Tennessee.

GEORGE H. THOMAS
vs.
H. J. SPRINGFIELD *et als.* } No. 74.

Damages.

29 Came the parties, by their attorneys, and also came the same jury, to wit, H. M. Collins, Tillman Copeland, Thomas Henson, S. M. Young, Fred. A. Hambright, Edly Anderson, John Gouldy, Sr., Daniel McDowell, Jesse Hall, John T. Warrawmore, Ephraim Brown, and C. L. Matlock, good and lawful men, citizens and freeholders of the southern division of the eastern district of Tennessee, who, being heretofore duly elected, tried, and sworn to try the issues joined between the parties, are from rendering a verdict respited until to-morrow.

THURSDAY MORNING, *October 9th*, 1884.

Court met pursuant to adjournment.

Present and presiding: The Honorable John Baxter, judge of the United States circuit court for the sixth judicial circuit, and the Honorable D. M. Key, judge of the United States district
30 court for the eastern and middle districts of Tennessee.

Verdict of Jury and Judgment of Court.

GEORGE H. THOMAS
vs.
H. J. SPRINGFIELD, C. E. STANLEY, and C. C. SNYDER. } No. 74.

Damages.

Came the parties, by their attorneys, and came also the same jury,

to wit, H. M. Collins, Tillman Copeland, Thomas Henson, S. M Young, Fred. A. Hambright, Edley Anderson, John Gouldy, Sr. Daniel McDowell, Jesse Hall, John T. Warrawmore, Ephraim Brown and C. L. Matlock, good and lawful men, citizens and freeholders of the southern division of the eastern district of Tennessee, who, being heretofore duly elected, tried, and sworn to try the issues joined between the parties, upon their oaths do say that they find the issues in favor of the plaintiff and assess his damages at the sum of seven thousand dollars.

31 Whereupon it is considered by the court that the plaintiff have and recover of the defendants the said sum of seven thousand dollars ($7,000.00), the damages assessed by the jury, together with the costs of this cause, for all of which an execution may issue.

Motion for New Trial.

GEO. H. THOMAS
vs.
H. J. SPRINGFIELD *et als.* } No. 74.

Damages.

In this case the defendants, by their attorneys, come and enter a motion for a new trial.

FRIDAY MORNING, *October 10th*, 1884.

Court met pursuant to adjournment.

Present & presiding: The Honorable John Baxter, judge of the United States circuit court for the sixth judicial circuit, and the Honorable D. M. Key, judge of the United States district
32 court for the eastern and middle districts of Tennessee.

Order Overruling Motion for New Trial.

GEO. H. THOMAS
vs.
H. J. SPRINGFIELD, C. E. STANLEY, and C. C. SNYDER. } No. 74.

Damages.

In this case the motion of the defendants heretofore entered for a new trial coming on to be heard, after consideration of the same, the court is of the opinion that said motion is not well taken and overrules and disallows the same.

Bill of Exceptions.

In the Circuit Court of the United States in and for the Southern Division of the Eastern District of Tennessee.

GEO. H. THOMAS *vs.* H. J. SPRINGFIELD *et als.*

Be it remembered that after said cause was called for trial and the plaintiff had announced that he was ready for trial the

33 def't, Snyder, by his att'y, H. B. Case, filed written exceptions and moved to suppress the depositions of Joseph Humphrey, W. T. Whitledge, and J. O. C. Blunt, witnesses for pl'ff, on the ground that said depositions were opened by the deputy clerk of the court out of term time without the consent or knowledge of said def't or his att'y, in writing or otherwise, and insisted that the truth of this motion was shown by the pleadings and record.

Exceptions of Def't Snyder to Depositions of Humphreys et al.

GEO. H. THOMAS

vs.

H. J. SPRINGFIELD, CHARLES E. STANLEY, & CHARLES C. SNYDER.

The defendant excepts to the depositions of Geo. H. Thomas, Joseph H. Humphreys, W. T. Whitledge, & J. O. C. Blount for the reasons that said depositions were opened by the clerk without the consent of the defendant Snyder or his attorneys in the cause.
34 The agreement signed by parties agreeing to open said depositions was not signed by defendant or his attorneys; defendant therefore moves to quash all of said depositions as to him.

CASE & LATIMORE,
Att'ys for Defendant Snyder.

Endorsed: Filed Oct. 7th, 1884. A. R. Humes, clerk, by W. G. McAdoo, Jr., D. C.

But it appearing to the court that said depositions were opened in pursuance of a written agreement between De Witt & Shepherd, att'ys for the other def'ts, Springfield and Stanley, and the att'ys for pl'ff.

Agreement of Attorneys to Open Depositions.

In U. S. Court, Chattanooga.

GEO. H. THOMAS *vs.* CHAS. C. SNYDER *et al.*

We, the attorneys in the above-named case, agree that W. G. McAdoo, deputy clerk of the U. S. court, at Chattanooga, may open, for the inspection of defendants' and plaintiff's attorneys, the
35 depositions recently taken in Bartow, Fla., by the plaintiff in the above case.

Aug. 18th, 1884.

WHEELER & MARSHALL &
ELDER & WHITE,
Att'ys for Pl'f.
DE WITT & SHEPHERD.

Endorsed: Filed August 20th, 1884. W. G. McAdoo, Jr., deputy clerk.

And it further appearing that said agreement was procured to be made by said De Witt & Shepherd, the motion to suppress was by

the court overruled; to which ruling def't Snyder duly excepted. Whereupon the cause came on for trial by jury before the Hon. John Baxter, circuit judge, &c., presiding, &c., when the following proceedings were had:

Testimony of Geo. H. Thomas.

Plaintiff, Geo. H. Thomas, testified that he lived in Bartow, Polk Co., Florida; had formerly lived in Southeast Missouri; that
36 for some two weeks prior to Sept. 1st, 1883, he had been in Chattanooga, Tennessee, boarding under the name of Atherton.

While in Missouri he had been harrassed with civil suits and had lost a large amount of money there, and he believed that for the purpose of getting more money from him parties in Mo. would prefer false charges against him, cause a requisition to be issued, upon which he would be arrested and returned to Mo., where summons would be served upon him in civil actions having no just foundation, and he would thus be harrassed, annoyed, and deprived of the balance of his money, and to keep parties from Mo. knowing his where-
abouts, and because he believed his letters had been tampered
37 with, he was passing under the name of Atherton, by which name he was receiving his mail. He had been guilty of no offence against the law in Mo. or elsewhere.

In the forenoon of Saturday, Sept. 1, 1883, in preparation for his departure for Rome, Ga., witness had taken his trunk to the R. R. depot at Chattanooga and was waiting for the train when, about 11 o'clock a. m., an officer of the police of Chattanooga, named Sloop, arrested him in front of the depot, assisted by def't, C. C. Snyder, upon a warrant issued for George H. Thomas, *alias* Parkhurst, *alias* Atherton, under all of which names he had written and received letters, for the reason above stated. The warrant charged him with being a "fugitive from justice from Missouri."

Affidavit of D. M. Doty.

STATE OF TENNESSEE, *Hamilton County:*

38 Personally appeared before me, Geo. M. Sherwood, an acting justice of the peace for said county, D. M. Doty, and made oath in due form of law that the offense of being a fugitive from justice has been committed, and charged Geo. H. Thomas, *alias* Parkhurst, *alias* E. L. Atherton thereof.

D. M. DOTY.

Sworn to and subscribed before me this 30th day of August, 1883.

G. M. SHERWOOD,
Justice of the Peace.

Warrant Issued by Justice of the Peace.

STATE OF TENNESSEE, *Hamilton County:*

To any lawful officer of said county:

Information on oath having been made me by D. M. Doty that the offense of being a fugitive from justice has been committed, and charging Geo. H. Thomas, *alias* Parkhurst, *alias* E. L. Atherton,
39 thereof, you are, therefore, commanded in the name of the State forthwith to arrest the said Thomas, *alias*, &c., and bring him before me or some other justice of said county, to answer the above charge.

Aug. 30th, 1883.

G. M. SHERWOOD,
Justice of the Peace.

Endorsed: No. 91. State of Tennessee *vs.* Geo. H. Thomas, *alias* Parkhurst, *alias* Atherton. Issued Aug. 30th, 1883. G. M. Sherwood, J. P.

Came to hand and executed by arresting defendant and setting the case for trial before G. M. Sherwood, justice of the peace, at 2 o'clock p. m., Sept. 3rd, 1883.

H. L. SLOOP, *Police.*

STATE OF TENNESSEE *vs.* GEO. H. THOMAS, *alias* PARKHURST.

Judgment that defendant —.

In this cause defendant waived examination, through H. L. Sloop, officer, and was committed to wait further action of the court.

G. M. SHERWOOD,
Justice of the Peace.

40 They inquired if he had a pistol and he told them he had not, but they felt in his pockets and found none. They then took him to the jail of Hamilton county, in Chattanooga, Sloop walking on one side and Snyder on the other. Arriving at the jail, Sloop and Snyder took witness into a room adjoining the office of the jail, where in a short time they were joined by def't, H. J. Springfield, sheriff of Hamilton county. The three, Springfield, Snyder, and Sloop, then examined him; asked his name, where he was from, and his business. Witness told them that his name was Thomas; that he had formerly lived in Dexter City and Poplar Bluff, in Southeast Missouri; had owned and run a saw-mill there, but had lately been living in South Florida, and was not then actively
41 engaged in any business. They asked why he left Missouri, and he replied because he could make no money there.

Snyder asked if he had been thinking of going to Yucatan, and he replied that he had. Snyder produced some torn pieces of a letter commenced to W. T. Whitledge, of Bartow, Fla., a partner of witness in some land speculation in Florida, and which witness had

torn up and thrown on the floor of the house where he had been boarding in Chattanooga, in which witness had spoken of going to Yucatan. Springfield & Snyder then asked what proceedings had been instituted against him in Missouri, and witness answered that he knew of none, except some civil suits respecting some stores and the title to a tract of land.

42 Snyder asked if he knew David Hughes, of Bartow, and said witness was wanted in both Missouri & Florida. Witness told him he knew Hughes well, but knew of no reasons why he or any one else in Florida should be hunting for him. Snyder asked if Hughes had bought any judgment against him and said Hughes had a judgment against him. Witness said he was not aware that Hughes had purchased a judgment against him, and knew of no cause why Hughes himself should have taken judgment against him.

Snyder then asked him of various other parties in New Orleans and St. Louis with whom witness had had dealings and asked if they had taken judgments against him, to which witness answered that he had no knowledge of any judgments obtained by

43 them or any reason why they should have obtained any.

Witness had thrown away at his boarding place some old letters from these parties, and from them Snyder had obtained their names, as he subsequently informed witness.

Springfield then ordered witness to empty his pockets and deliver up his money and papers, and took from him $200.00 in money and some letters, which were read and retained.

Springfield directed witness to draw up his sleeves, and he examined witness' arms.

Snyder asked witness whether he wanted to go first to Missouri or Florida, and witness told him that before he answered that question he wanted to see an attorney.

Springfield said: "It is of no use for you to see an attorney.

44 If you apply for a writ of *habeas corpus* the hearing of the matter can be adjourned from day to day, and you will simply waste what money you have."

Springfield then asked Snyder if the witness was the "man," to which Snyder answered: "Yes; he does not deny it himself."

Springfield asked what was the charge against him, to which Snyder answered: "Obtaining money under fraudulent pretenses."

Springfield then turned and signed or made out some papers which the witness did not see, and they said witness would be put in the hospital cell in the jail. At no time during the interview was anything said by or to the witness about waiving an

45 examination before a magistrate, and witness did not waive such examination.

Witness was taken to the hospital cell, and after being there some time Sloop came up and asked for the key to his trunk, which he said had been brought from the railroad depot to the jail, and which he said the officers wished to examine.

Witness gave Sloop the key and he went away. During the inter-

view with Springfield, Snyder, and Sloop witness had assured them that he was innocent of any crime in Missouri or elsewhere.

After witness had been in the cell some time Snyder came to him and told him he had read the letters found in witness' trunk, and was convinced that witness was more "sinned against than
46 sinning;" that there was a description published of witness in the National Detectives' Gazette, with a reward of $500.00 for his capture; that he was not interested in the Missouri parties who wanted him, but would get his money if witness was delivered to them by him; that Sheriff Springfield was going to Missouri the Monday following, and if witness could arrange to get $500.00 and give him he would arrange, as soon as the money came, with the officers and would take witness out of jail under the appearance of taking witness to Missouri, and would, as soon as they got out of Tennessee, release witness, and would give rise to the report in Chattanooga that witness had been taken back to Missouri; or, if witness wished to leave the country, he would go with him and procure
47 him a passport; that though he was a detective he was also an attorney-at-law and could act as such for witness; that he was on intimate terms with the officers at the jail and would, therefore, be allowed more liberties than other attorneys; that the officers in the jail expected to get a portion of the reward, & would be on the watch, but something would happen to enable witness to get off in such a manner as that they would lose their part of the reward, but they would not be as suspicious of him (Snyder) as they would be of others.

Witness told him he was innocent of any crime in Missouri or elsewhere, but he did not want to be taken back to Missouri
48 upon a criminal charge, and if there was a reward of $500.00 offered for him there, and he (Snyder) would enable him to escape and avoid being taken back to Missouri and help him about getting a passport and to leave the country, he would take steps to get the $500.00, and felt confident that he could procure it, though there would be a delay of several days before he could get it.

Snyder thereupon produced some paper and witness wrote a message to send by telegraph to Whitledge, at Bartow, Florida, asking him to send witness what money he could.

Snyder took the message to be dispatched to Whitledge and another to be sent Alfred Thomas, of Columbus, Ohio, an uncle
49 of witness, asking for a loan of $1,000.00 and a letter to Alfred Thomas of similar purport. Late in the afternoon of Sept. 2nd Snyder returned and told witness he had taken the liberty of changing the message to Whitledge to one asking for the specific sum of $500.00, but he had since thought it best for witness to send to Whitledge for $300.00 more, so as to have something on hand for traveling expenses, as the officers in the jail would expect a large part of the $200.00 the sheriff had taken as their part of the reward before they would allow witness to go off with him (Snyder). Witness wrote another message to Whitledge asking for the additional $300.00, and Snyder went off with it.

50 *Telegrams sent to Whitledge.*

Number 1 C.	Sent by W. A.	Rec'd by O.	Check 23; paid.

Received at Bartow, Fla., 4.20 p. m., Sept. 1st, 1883.
Dated Chattanooga, Tenn., Sept. 1st, 1883.

To W. T. Whitledge, Bartow, Fla.:

Am under arrest from Missouri and must get money by Wednesday. Send five hundred at once, care C. E. Stanley, dept. sheriff. Answer.

E. L. ATHERTON.

Number 3 C.	Sent by W.	Rec'd by O.	Check 22; paid.

Received at 9.04 p. m., Sept. 1st, 1883.
Dated Chattanooga, Tenn., Sept. 1st, 1883.

To W. T. Whitledge, Bartow:

It will take eight hundred to clear me; was disappointed in getting money elsewhere. Send three hundred more to same address. Answer.

E. L. ATHERTON.

51 Snyder returned some afternoon and showed witness a dispatch from Whitledge, which had been opened, saying he had sent the $800.00 and it would reach witness the Thursday or Friday following.

During Sunday, Sept. 2nd, defendant, C. E. Stanley, deputy sheriff, came to the cell and had a conversation of about half an hour with the witness about the fruits of Florida.

On Monday Snyder brought witness a telegram, which had been opened, from Alfred Thomas, at Norwich, Conn., when he was visiting, saying that he had sent witness $200.00, and that he could not raise the balance of the $1,000.00, but that the aunt of the
52 witness, Caroline L. Thomas, would furnish the balance, if necessary.

During Monday or Tuesday Snyder came to witness and asked him if he was known in Cincinnati, saying that there was a detective from that city in Chattanooga who claimed that he had come for the purpose of taking witness to Missouri, and said he had a requisition for witness, but had not shown it, and that the detective was working in conjunction with officer Doty, of the Chattanooga police force; that he (Snyder) did not know how the detective had knowledge of witness' arrest, as he (Snyder) had kept the affair out of the papers, but that probably Doty, who had just been to Cin-

cinnati had seen the detective and informed him; that Doty
53 was expecting a part of the reward for the capture of witness, and was probably afraid he would be cheated out of it, and consequently Doty and the Cincinnati detective were planning to get hold of witness & secure the reward for themselves.

He advised witness to move his bed close to the wall of the cell, so that his face would be away from the door, and if any one came to look in through the grated door to turn his face to the wall, so that he might not be recognized, and so the officers could say a sick man was in there.

Snyder also told witness that he thought it would be best for him to waive in writing a requisition, so that matters might be in
54 shape to get off upon short notice, as soon as witness money should arrive, and he gave witness a written waiver of a requisition which witness signed.

Waiver of Requisition by Thomas.

Office of sheriff, Hamilton county, Tennessee. H. J. Springfield, sheriff; C. E. Stanley, deputy.

CHATTANOOGA, TENN., *Sept. 4th*, 1883.

To G. M. Sherwood, J. P.:

Having been arrested in this city upon the charge of being a fugitive from justice, and being held under bond until a requisition can be obtained, I hereby agree to waive the procurement of a requisition & freely & voluntarily consent to be removed from the State of Tennessee by C. E. Stanley or any one else designated by him upon said charge at any time.

GEO. H. THOMAS.

Attest: C. C. SNYDER.

55 Endorsed.

STATE OF TENNESSEE *vs.* GEO. H. THOMAS.

In this cause it is ordered by the court that the defendant, having waived the right of requisition, be consigned to the custody of C. E. Stanley, dept. sheriff, or any person designated by him, for the purpose of removal from the State of Tennessee.

This Sept. 4th, 1883.

G. M. SHERWOOD, *J. P.*

In pursuance of the above order of the court I have this day consigned the defendant in said cause to H. L. Sloop.

Sept. 6th, 1883.

C. E. STANLEY,
Dept. Sheriff.

Certificate and Order of Stanley.

Office of Sheriff Hamilton County, Tennessee. H. J. Springfield, sheriff; C. E. Stanley, deputy.

CHATTANOOGA, TENN., *Sept. 6th*, 1883.

56 This is to certify that Geo. H. Thomas has freely & voluntarily waived, in writing, requisition and all formalities; and Geo. M. Sherwood, J. P., having directed me to convey the said Thomas to Missouri or to designate some one to convey him there, I have transferred to Henry Sloop, policeman, all authority vested in me to so convey him. I hope my friends will assist Mr. Sloop to land him safely in Missouri.

Chattanooga, Tenn., Sept. 6th, 1883.

C. E. STANLEY.

P. S.—If Mr. Thomas or C. C. Snyder, his attorney, wishes a few days' delay on the way to Missouri, I would advise Mr. Sloop to accede to their wishes, provided Mr. Snyder will agree not to obtain writ of *habeas corpus*.

C. E. STANLEY.

57 During either Tuesday or Wednesday witness received a letter, which had been opened and was brought by Snyder, from Alfred Thomas, from Norwich, Conn., enclosing draft on New York to witness' order for $200.00, and which he endorsed and gave to Snyder to collect. About the same time witness telegraphed his aunt, Caroline L. Thomas, for $800.00. Wednesday afternoon Snyder came and said he thought Whitledge was in town and wanted to know if it would do to admit him to see witness, and told him that if proceedings for a writ of *habeas corpus* were taken he would at once take witness to Missouri. He had previously told me about going to Florida to see Whitledge & get money from him to settle
58 witness' matters, and asked if, while he was absent, Alfred L. Thomas should come to Chattanooga and apply for a writ of *habeas corpus* through other lawyers, witness would make use of this fact to avoid paying him (Snyder).

Witness assured him that if he agreed not to apply for a writ of *habeas corpus* he should do as he agreed.

On Wednesday afternoon, Sept. 5th, Snyder told witness it might be necessary to take him out of jail and he might be allowed to walk about by himself for a short distance, and if he followed his (Snyder's) directions he would not be hurt, but if he did not he might be shot.

Late Wednesday evening def't Deputy Sheriff Stanley
59 brought to witness' cell Mr. Humphreys, of Bartow, Florida, whom witness knew as a law student there. Humphreys gave witness a letter from Whitledge, in which he said he had sent $800.00 by Humphreys as requested by telegram. Witness asked Stanley if he could speak to Humphreys alone, but Stanley replied

that it was contrary to the rules of the jail. Humphreys asked if, as witness' attorney, he could not speak to witness alone, & Stanley replied in the negative. Witness asked if he could not be allowed to speak with Humphreys in the presence of Snyder, and to this Stanley agreed and called Snyder, who was in the room below, up, and left Snyder, Humphreys, and the prisoner alone, locked in the cell.

60 Humphreys asked upon what grounds witness had been arrested, and witness replied that he knew of none but that there were two civil suits pending in Missouri when he left, and gave him a statement of their nature. Humphreys asked what plan of action had been agreed upon between Snyder and witness, and the latter told him he wanted to avoid being taken back to Missouri upon a criminal charge, and Snyder had agreed to take him out of Chattanooga for the ostensible purpose of taking him to Missouri, but when he was out he was going to release him, and if witness desired was to get him a passport and assist him to leave America, and that they were then waiting for the necessary funds to

61 arrive to carry out the plan, and if he (Humphreys) had the money with him they could set out that night.

Snyder asked Humphreys what he thought of the plan, and Humphreys answered that he could answer better after he had had a little more time to consider the matter. Snyder asked Humphreys if he had the money with him, and Humphreys said he had left it at the hotel. Witness asked Humphreys if he would get the money and give it to Snyder, and understood Humphreys to say he would.

Witness asked Humphreys to step outside the cell a minute and let him confer a moment with Snyder, and Humphreys left the cell.

62 After Humphreys was gone witness told Snyder he wanted him to hurry up the matter. Snyder asked if he was depending upon him or Humphreys to carry out the plan. Witness answered that he had employed him (Snyder) to carry the business through and not Humphreys. Snyder went down-stairs to see Humphreys, and returned shortly, saying Humphreys had left, and told witness that if he wanted him to carry out the plan witness must get the money from Humphreys. Witness replied that he was locked up in the cell and all he could do was to write Humphreys or get him (Snyder) to see him.

Witness and Snyder then agreed that if they got the money

63 from Humphreys, Snyder was to go with witness to Newport News, where Snyder had acquaintances, and Snyder would then procure witness a passport and see him off on a steamer, for which he was to receive his traveling expenses and fifty dollars in addition to the $500.00 reward. Snyder went off to see Humphreys and returned saying that Humphreys refused to hand over the money and said he was employed by Whitledge and not by witness.

Snyder said he was confident Humphreys had gone off to employ other lawyers and was trying to get a writ of *habeas corpus*, and, if so, he (Snyder) would have to fight it to secure his $500.00

64 reward; that it would give him a hard fight, but in the end

he would gain the victory, and during the time the fight was going on witness would be exposed to whatever Officer Doty and the Cincinnati detective might do; that Humphreys was proceeding under the idea that there were none but civil suits against witness and said, "But we hold you upon a distinct criminal charge."

Witness wrote a letter to Humphreys and — give to Snyder, which the latter said he would do, but he should have no further communication with Humphreys so long as the latter opposed him.

On Thursday noon Snyder came to the cell and after asking several questions told witness that, to avoid being taken by Doty
65 and the Cincinnati detective, it might be necessary for witness to leave the jail that afternoon; that Humphreys had employed Elder & White, attorneys of no standing, at Chattanooga, and things were taking a course towards a fight, in which witness would be a shuttlecock between contending factions. He asked witness again if he wished to rely upon him or Humphreys, and witness told him he had employed him and not Humphreys and looked to him to settle matters.

He then told witnesss to put his things in his hand-bag, which had previously been brought to his cell, and be ready to go out after dinner upon short notice. After dinner Snyder came to the cell
66 accompanied by a man whom witness supposed was the jailer, and Snyder requested witness to report to this man his previous statement that he had employed Snyder and not Humphreys as his attorney, which witness did. Snyder and the jailer then told witness to follow them down-stairs, which he did, and he was then delivered to Officer Sloop, Deputy Sheriff Stanley, Snyder, and the jailer being present. Snyder said to witness privately, "All that is done this afternoon will be done in your interest."

Sloop told witness to follow him, and he took his bag and went by a side door out to a buggy standing outside. Sloop told him to sit back as far as possible to avoid being seen. They got into
67 the buggy and Sloop drove by a circuitous route through the country, and after driving around some time they came back towards town, stopping in an oak thicket near a beer garden, appointed as the place for meeting Snyder.

On the way witness asked Sloop if the cause of his being taken out of jail was to avoid Doty and the Cincinnati detectives; Sloop laughed and said it was. Just before they stopped Sloop fired off his pistol & told witness to listen for shots in return; several shots were heard a short distance away at short intervals, and Sloop replied by discharging his pistol in reply. In a short time Snyder came up in a buggy accompanied by a man, whose name wit-
68 ness afterwards learned was Jim Turney. Snyder took witness aside into the bushes and gave him writing materials and dictated the form of a letter he wished witness to write, addressed to Humphreys and Blount, a friend of Humphreys from Bartow, Florida, then in Chattanooga, stating that he had employed Snyder as his attorney and did not wish for other attorneys. Witness wrote the letter as requested and gave the same to Snyder; he asked witness if he wanted to settle the judgments against him in Missouri,

and witness said he did. Snyder said "All right, the civil cases don't amount to anything; the prosecution is what you want to get rid of. Snyder asked if witness had any letters or
69 papers about him which might serve to identify him, and witness gave him several papers & letters. After some further conversation Snyder introduced Turney to witness and told him to go with him in the buggy, and Turney would keep him from all harm. Turney took a course by unfrequented routes through the country, crossing the Georgia State line, as he said, and then made his way back towards Chattanooga to a house where lived a relative of his by the name of "Little." They arrived late in the evening, and after they had been there some time Snyder & Sloop also came, and witness, Turney, Snyder, & Sloop went to Turney's home.
70 Before they arrived there Snyder, Sloop, & Turney held a consultation as to the best mode of concealing & keeping witness. Snyder then came to witness and told him that he was under a bond of $5,000.00 to produce him in court, and that Turney, as his deputy, when in charge of him was responsible for the same amount, and it would ruin him and Turney if witness escaped, and if a requisition came from Missouri and witness was found he could do nothing more for witness, and if they saw any attempt on the part of witness to escape he would be shot if it was necessary to prevent the escape, and if he did escape they would hunt him and kill him, if necessary, as witness would any man who had tried to
71 ruin him; but they believed witness was a gentleman, and they would have confidence in his promise not to escape and would therefore confine him less strictly than they otherwise would. Witness told Snyder he was relying solely upon him to get him out of trouble and would not attempt to escape. Snyder said that was sufficient, and told Turney he thought it would not be necessary to put irons upon witness; that the latter would stay all right in a room, but if he (Turney) had any fears, to go ahead and put them on. By this time they were at Turney's house and Turney and witness went in, and Turney told witness to sleep in
72 a bed with his brother-in-law Charlie, already asleep on the bed drunk. They rolled him over on one side of the bed and witness got into the bed, and shortly after Turney came and put handcuffs upon witness' ankles, saying that he had no leg irons, and if he did this he (Turney) could sleep quietly. Witness remained at Turney's until the afternoon of Friday. During the forenoon Snyder came and witness wrote a letter to Whitledge and gave to Snyder to mail. While writing it witness asked Snyder if there was a criminal prosecution against him in Missouri, and Snyder replied in the affirmative by nodding his head; and witness wrote Whitledge that such prosecution had been
73 command against him, and that Humphries had refused to give up the money he had sent. This letter was read to Snyder. Snyder said he had been unable to get the money upon the draft witness' uncle, Alfred Thomas, had sent, as the bank required evidence of the genuineness of the signature of Alfred Thomas, and the draft had to be sent off by express to be cashed,

and he expected the money the following Monday. He said the police of Chattanooga were all on the hunt for witness, as well as the Cincinnati detective, and Snyder appeared much concerned.

Snyder told witness before the latter left the jail that it
74 would be well to shave off his whiskers to avoid recognition. He spoke about it again at Turney's house, and Turney, too, said he was afraid witness would be found out if he remained at his house, and advised that witness be shaved and leave the house in woman's clothes. Accordingly, immediately after dinner, Turney shaved off witness' whiskers and witness put on a calico dress of Turney's wife and a sun-bonnet belonging to her. Turney told him that he and his brother-in-law would go out at the front door and walk along the street in the direction of a creek he indicated, and directed witness to go out at the back door, come around the house, and
75 follow them at a short distance and not to look around, but to look down and be careful that no one should see his face. Witness did as he was directed, followed Turney and his brother-in-law until they stopped and waited for him to overtake them, when Turney told him two men were approaching who knew him, and witness and the brother-in-law must get over the fence and go to some woods a short distance away. They crossed a field into the woods, where Turney overtook them, and all three hid in a canebrake the balance of the day. At nightfall they went to the house where Turney's relative, Little, lived, and spent the night
76 there, Turney putting the handcuffs on witness' ancles as on the previous night. All Saturday witness remained about the farm-house, hid in some tall weeds, Turney's brother-in-law guarding him, with Turney, until about mid-day, when Turney went into town and come back about dark, drunk. After supper Turney and the witness went into a neighboring corn-field. Turney expressed great apprehension lest the police should come after the witness.

After they had been there some time the brother-in-law, who had left them, returned and said that defendant, Deputy Sheriff Stanley, had been at Little's house nearly an hour and wanted to see Turney at the house. Witness had heard the sound of a
77 horse's steps going up to the house, but could not tell who was upon it. Turney left the brother-in-law in charge of the witness and went to the house. Turney returned after awhile and said that Stanley had been at the house, but he did not want to see witness, as he wished to be able to go into court and swear he had not seen witness since he left the jail, and had no personal knowledge of him.

The defendants excepted to the foregoing statement of Turney to witness, because neither of the def'ts was present at the time of the alleged conversation between Turney & witness, and Turney was not a party to the suit, nor was it alleged or proven that Turney
78 was a co-conspirator with the other def'ts; which objections were allowed by the court to be reserved by the def'ts and the testimony allowed to go to the jury, the court stating at the time

that the evidence was clearly incompetent, unless it appeared in evidence that Turney was one of the conspirators, aiding and abetting def'ts, or one of them, in carrying out a joint conspiricy or trespass against plaintiff; to which ruling of the court def'ts excepted.

No further objection was made to this testimony, and the court was not asked at any time thereafter to withdraw it from the jury.

With Turney came a man who was a mail-carrier, and whose name witness learned was Balch. After some conversation
79 Turney, his brother-in-law, Balch, and the witness went to the barn and laid down, and the irons were again put on the ancles of witness.

Turney told witness that Balch had been sent to reinforce them, lest the police should outnumber them, and Balch said the cause of the rivalry between the county officers and the police force was a political one. He asked what witness had agreed to give Snyder as a fee, and witness told him $500.00, and he said Snyder will fight for you; he said there was one favorble point for witness, and that was that the police and the Cincinnati detective offered no reward. They remained in the barn until morning.

80 Early Sunday morning Turney, his brother-in-law, and witness set out for the mountains near by. Arriving there, the brother-in-law went back to town, and Turney and witness remained lying among the bushes for a time. They heard a noise and thought they saw a man peering through the bushes at them. Turney raised up and the man or animal ran off. Turney said he thought it was some one in the interest of the police party hunting for them. Before this Turney had told witness that a carriage was coming for them that day and would take them across the Georgia line, where they were to meet Sheriff Springfield, who would then release witness. Turney & witness then went westward into the
81 valley across the road and up the opposite slope, and there waited for the carriage. Presently a covered carriage stopped in the valley below, and they went down to it and found in the carriage the mail-carrier, the brother-in-law of Turney, and a negro driver. Turney and witness got in with them, and they drove some distance southward and stopped, and presently Snyder and Sloop came out of the bushes and also got into the carriage. As they drove along Snyder said they were going to meet Sheriff Springfield across the Georgia line, who would then set witness free. They drove across the line and there found Springfield. Going along
82 Snyder requested witness to tell Springfield when they met him that witness had employed Snyder as his attorney and no one else. Springfield told him he had that morning returned from Missouri and only had $50.00 of the $200.00 he had taken from witness at the time of his arrest, and he had had no opportunity of getting any money out of bank that morning.

He gave the $50.00 to witness and wanted the latter's receipt for the whole $200.00, less the expenses of telegraphing, board in jail, &c., and said he would send the balance of the money to witness,

wherever he might be, through Snyder or any other person witness might designate. Witness gave him a receipt for $50.00 and
83 an order to turn over the balance of the money, less expenses, to Snyder, and requested that the money be sent to him at first opportunity by Snyder.

Order and Receipts of Thomas Given Defendant Springfield and Endorsements.

McFARLAND'S, GEORGIA, *Sept. 8th*, 1883.

Mr. H. J. Springfield, sheriff of Hamilton county, Tennessee:

Please pay to Mr. Chas. C. Snyder or order the sum of one hundred and fifty dollars of money of mine in your hands, less the amount of expenses advanced by Mr. Stanley.

GEO. H. THOMAS.

McFARLAND'S, GEORGIA, *Sept. 8th*, 1883.

Received of Mr. H. J. Springfield the sum of fifty dollars, part of amount turned over to him.

GEO. H. THOMAS.

Endorsed.

Rec'd payment in full of my expense account.
Sept. 10th, 1883.

C. E. STANLEY.

84 Rec'd the balance due me on the within order this Sept. 10, '83.

C. C. SNYDER.

Springfield then asked witness about some of his acquaintances in Missouri; said he had been at Dexter City and found out nothing against him there, but had not been to Poplar Bluff, and did not know what there might be against him there; and, raising his voice so that all could hear him, said, "I tell you frankly, gentlemen, that if any papers come from Missouri or elsewhere, I shall do my duty." "But," said Snyder, "you will not go out of your jurisdiction to execute a warrant, will you?" "No;" said Springfield, "I shall not go out of my jurisdiction." "Well," said Snyder, "we shall know how to
85 meet such a case." All the parties, Springfield, Snyder, Sloop, the mail-carrier, Turney, his brother-in-law, the negro driver, and witness went off to get dinner at a farm-house near by, and on the way Snyder told witness that no prosecution had actually been commenced against him in Missouri, but one was threatened if the judgments against him there were not paid, but he did not need to leave the country. Snyder had brought out with him from town a letter from the aunt of witness from Norwich, Conn., enclosing check for $700.00, which letter had been opened and the check witness endorsed and gave Snyder to collect, just after
86 giving the receipt to the sheriff. All the parties got their dinner at the farm-house and witness paid the bill. Various

suggestions were made as to where witness should remain until Snyder should be able to get the balance of the money in the hands of the sheriff and could collect the money upon the $200.00 draft sent by the uncle and the $700.00 check sent by the aunt. The party then discussed whether it was best for witness to remain in the vicinity or go elsewhere, and it was finally thought best he should remain in the vicinity until Snyder should collect the money and investigate the judgments against witness in Missouri.

87 Snyder had before that, during same day, told him that Humphreys, White & Elder had made statements in court that witness was a young man of fabulous wealth but of unsound mind and incapable of making a contract, and he wanted him when he was set free and was no longer under duress to write a letter stating that he wanted him (Snyder) as his attorney, and to write a letter to Judge Trewitt, the substance of which he would state to witness, but he wished to avoid the appearance of dictation, but he wished witness to deny in the letter that witness was of unsound mind, or that he was subjected to any exorbitant demands, or that Whitledge was his guardian; and before dinner wit-

88 ness, in presence of Springfield and the members of the party, wrote the letter as requested, and gave the one addressed to Judge Trewitt to Springfield to deliver; the letter to Judge Trewitt was read aloud, and Springfield, Sloop, and Snyder looked it over afterwards, and Springfield expressed satisfaction at the manner in which it was written. After dinner Sloop, Turney, witness, and the negro driver took the carriage and went off southward, and on the way Sloop said, "George, they are trying to arrest me in Chattanooga for taking you out of jail; I am going to release you like a gentleman, and I want you to give me $10.00, so I can go into Georgia and keep out of the way for a little while." Witness

89 gave him $10.00. About nightfall they came to a farm-house, where Sloop said he thought witness could stay over night and Turney would come out next morning with a conveyance and take him to some pleasant boarding place, where witness could remain until witness and Snyder could get their business matters adjusted.

Monday forenoon Turney arrived with a buggy and they drove southward some miles and stopped at a farm-house, where witness engaged board for a week or so, and Turney left him there and went back to town. That night, about nine o'clock, Snyder and Turney drove up in a carriage, and taking aside witness

90 Snyder told him that a telegram had that afternoon come from Missouri, ordering them to hold both witness and Humphreys; that Springfield was then out looking for him and the police were all hunting for him; that it was getting too hot and he feared he could not safely keep witness in the neighborhood of Chattanooga; that they must start off immediately, as soon as he had given witness some money. They went into the house where Snyder delivered him $690.00, which he said he had received on this check of $700.00 sent by witness' aunt; that he had deducted $10.00 for telegraph expenses at the jail, but he

had not received the money from Sheriff Springfield
91 nor the $200.00 on the check of witness' uncle. Snyder asked witness for a receipt for the $700.00 and one for the $200.00, which witness gave. They then left the house, and, when outside the gate, Snyder told him he was letting him go without any settlement with him; that the other parties had tried to prove that he was insane, and though he (Snyder) knew that he was perfectly sane, yet he was a man of but little will-power, and when he got away other parties might induce him to go back upon him, and if he did it would be a fight between them. Witness told him that he felt that he (Snyder) had got him into this trouble, but he
92 (witness) had employed him to get him out of it, and so long as he continued to work for him he should not go back on him. Snyder said he wished he could go with him, but he could not, but if witness feared detectives or had apprehensions of being bulldozed or kidnapped Turny would go with him, if witness desired, and do for him all that fighting could do. Snyder offered him a pistol, which witness declined. They then got into the carriage and on the way discussed where witness should go. Snyder suggested Liverpool; witness the West Indies, to which Snyder objected that it was too near Florida, and if the Missouri parties ever went to Florida after him they could easily run over to the West Indies. Snyder then suggested Australia
93 as being so far away that Missouri parties would not follow witness there, but the latter replied that he had not enough money for so long a trip. It was finally agreed that witness should go to Liverpool by way of New York, and Snyder should express his trunk to a ticket agent in New York who knew both Snyder and Turney. Snyder offered witness a second time a pistol, which was again refused. Snyder said, George, if the police should come after us now, wouldn't you do a little shooting? To which witness returned an evasive reply. He then said, They are not going to get you if it does take a little shooting. He asked him again if he wanted Turney to go with him to New York, and told wit-
94 ness he had better agree with Turney what his charges would be. He said the officers in the jail would expect something, as witness had got off. He wanted him to write him every day on the way to New York, and frequently afterwards, and it was arranged that all his letters should be sent under cover to Snyder. Snyder said the greatest danger would be at Cincinnati, and if they got by there they would be all right. He said they had better sing and make a noise as if drunk when passing through the outskirts of Chattanooga. They drove through the suburbs of the city and out to a station some four miles distant and got out. Witness em-
ployed Turney to go with him to New York, and agreed to
95 give him a hundred dollars and expenses, as Turney said he would probably lose his place on the police force, and could not afford to go for less, and witness gave the money to Snyder to be given Turney's wife. Turney & Snyder left the station at 5 o'clock in the morning, having purchased tickets to Somerset, Ky., at Snyder's suggestion, so that if parties traced them to this

station they would lose their track beyond Somerset. At Somerset they paid their passage to Cincinnati on the train, and at Cincinnati purchased tickets for New York, where they arrived Wednesday night. Then witness telegraphed under an assumed name to Snyder to send him his trunk. Witness engaged
96 passage for Liverpool, by way of Glasgow, by the steamship Indiana; gave Turney $40.00 to pay his expenses back to Chattanooga. Turney accompanied witness on board steamer, and on board witness wrote to Snyder and a letter to Whitledge, at Bartow, Florida, and gave the letters to Turney to give to Snyder and by the latter to be forwarded to Whitledge.

Letter of Thomas to Whitledge.

DEAR DOC: When I left Chatta. a telegram had just come to hold me and Humphrey from Missouri. I am in haste and can say only briefly I got arrested by fact that a detective got hold of some letters of mine, and the police thought that there was a big
97 reward for me; arrested me and held me to inquire. I was in the hands of county officers, and the city officers were determined to get me. I was a bone of political contention, and this made a mountain out of a mole-hill. Both parties thought that the other knew there was some large reward for me. Snyder had kept the matter out of the paper until Humphrey came, and he, a stranger, undertook to beat a ring of county officials. He wasted the money you sent in a hopeless and useless struggle. He brought publicity on the affair, increased expenses and danger to me, and finally, in fact, brought Missouri to telegraph down there. He has done nothing but waste money and injure me, and if I get in shape, and can, I shall be likely to prosecute him for embezzlement
98 if any money has been paid with the intent of charg. it to me. If you have not paid him you must —. He has done me great wrong. I knew that he could not by law beat the ring of county officials, and, though I was innocent, I knew that Missouri would, if they thought they could make anything, try to prosecute me to get me back and make me pay. Now, I has, owing to Humphrey's course, attracted much attention, been published all over the country, and done just what no friend of mine would want done. Snyder would have got me out of the way without Missouri hearing from me, in all probability, had Humphrey delivered that money. I wrote and begged Humphrey not to do as he did, but he persisted —
99 spending money and injuring me in a way I cannot forgive. I had arranged so that no matter what Missouri said I was to be out of way, but this delayed everything, and had I not got help from other sources than what you sent by Humphrey I should now be in Missouri, subject to their worst. Now, Doc, this won't do at all. I knew that innocence would not protect me. Humphrey trusted to law against political combination. I think that the idea now is to get Missouri to send papers to Chattanooga, where they will be held on the pretence that there is hope of making something. Missouri, as I said, telegraphed for Humphrey as well as me.

100 Humphrey and his attorneys stated that I was of unsound mind, under your guardianship (thus exposing all the Bartow property), and was a man of "fabulous wealth." In fact, Doc, Humphrey and his colleagues have been among my very worst enemies under pretense of friendship. Look out that they do not come on to Bartow after Humphrey and attach the property there. If the papers can be steered to Chattanooga, I think they will be kept there and collection delayed; I hear this from subordinate officer. I am in great haste, Doc, being run completely out of way till things can be shaped. Correspond with Snyder; see him if you can.

This business may ruin me financially. You must act ur-
101 gently about it, and don't trust to any such men as Humphrey. They have not learned that justice is nothing when opposed to the interest of a party. Mine became a political issue, and the county officials hid me for days in the country to prevent the city officials from getting me, and before the *habeas corpus* could be tried the sheriff came back from Missouri, where he went, and released me, after I had be- run over the Georgia line, and had it not been that Humphrey's course had made a great noise over the matter and got it into the papers I could — quietly staid near Chatta. and been safe, but the telegrams from Missouri came and stirred the whole afresh.

Yours, in haste, —— ——.

102 Write to me, through Chas. C. Snyder, of Chattanooga, and don't desert me now. I have got all the help I can from any other source.

Yours, GEO.

Write only the name of Snyder on the envelope until further —. Secretly, to avoid possibilities, I sail for Glasgow and Liverpool in steamer Indiana, under name of James F. Smith.

Envelope.

New York,
Sep. 13,
3.30 p. m.,
'83.

W. T. WHITLEDGE,

Bartow,

Florida.

He also wrote a short letter to his aunt at Norwich, Conn. This was Thursday, Sept. 13th.

Arriving at Glasgow he again wrote his aunt, enclosing a
103 letter to Whitledge, telling the latter he was going to Liverpool and asking Whitledge to write him, addressing to "James F. Smith."

About Octo. 28th he received a cablegram from Whitledge at Bartow, saying, "Await my letter," and about Nov. 12th he received a letter from Whitledge telling him to return at once to Florida, and saying he could convince him that all the proceedings against him at Chattanooga were "bogus."

Thereupon witness returned to Florida at once by way of New York and Savannah.

His actual expenditures of money, from the time of his arrest until his return to Florida, were about $1,500.00.

Witness was an educated man and had studied law.

104 *Testimony of Jos. H. Humphreys.*

JOSEPH H. HUMPHRIES, a witness for pl'ff, testified in his said deposition in substance as follows:

I reside in Bartow, Polk Co., Fla., & am engaged in the practice of law. I have known pl'ff about 2 years, and during that time he has sustained a good character. On Saturday night, Sept. 1st., 1883, Dr. W. T. Whitledge employed me to carry 800.00 dollars to pl'ff at Chattanooga, Tenn., from Bartow, Fla., to investigate the cause of his imprisonment and secure his release. I left Bartow, Fla., for Chattanooga, Tenn., early Sunday morning, Sept. 2nd. At Callahan, Fla., I met Mr. J. O. C. Blount, a resident of Bartow, en route for Louisville (Ky.) Exposition. We traveled together to Chattanooga, & he stopped off with me, as he had a lawyer acquaintance in the city whom he proposed to introduce me to.

105 I was an entire stranger in Chattanooga. I brought with me two telegrams which Dr. Whitledge had received from pl'ff directing him to send money in care of C. E. Stanley, dep'ty sheriff. I telegraphed Stanley, in Whitledge's name, at Atlanta, Ga., that I was on the way with the money. I reached Chattanooga Wednesday evening, Sept. 5th, about 8 o'clock, & registered at the hotel with Blount in the name of Whitledge. I did this because the correspondence had been carried on in the name of Whitledge, & as I was a stranger I thought it would better enable me to get in communication with Stanley, supposing he would be on the lookout for Whitledge. As soon as I registered I asked the hotel clerk if he knew where I could find C. E. Stanley, dep'ty sheriff. The

106 clerk addressed some one as Snyder & asked if he knew where Stanley was. Snyder said he supposed he was at the jail, & proposed to conduct me to him. As soon as we started and got out of the hotel Snyder, who proved to be Chas. C. Snyder, one of the def'ts, said he supposed he knew my business & asked me if I had not come to see after Geo. H. Thomas. I told him "Yes." He said he knew all about his case; that he had advised the officers who

made the arrest, but they had not paid him, & that he had since pl'ff's arrest been employed by him, & that he thought the matter could be managed without much trouble. Snyder asked if a friend did not come from Fla. with me, referring to Blount. I told him "Yes." He then proposed that we get Blount to personate an
107 officer from Missouri & pretend that he had come after Thomas & that he (Snyder) would get up a pretended requisition from the Governor of Mo. for him, and that he could get a country justice of the peace to order Thomas turned over to Blount & he could take him away that night and turn him loose. I told him Blount could not do anything of the kind. Snyder then asked if I could not personate a Mo. official, get possession of Thomas and turn him loose. I declined. He said we must act that night; that his arrest would be published next morning, & then it would be too late to carry out his plans. On the way to the jail he tried to get me to drink with him several times, which I declined. On arriving at the jail Snyder introduced me to deft Stanley as Whit-
108 ledge. I took Mr. Stanley to one side at once & told him my name was not Whitledge, but Humphries, and told him why I had used that name; also told him my profession, showed him the telegrams sent Whitledge by Thomas, & mentioned the fact of having telegraphed him that day from Atlanta, Ga., in the name of Whitledge, and asked to see Mr. Thomas. He said the sheriff, who was away, had instructed him not to let any one see Thomas except in his (Stanley's) presence. Stanley then conducted me to the cell in the county jail in which Thomas was confined, unlocked the door, and turned us in where Thomas was. Thomas recognized and spoke to me & I handed him a letter from Dr. Whitledge. After Thomas had made a few inquiries about Bartow he asked Stanley
109 if we could not have a few minutes' private conversation together. Stanley said, "No," but that he was at liberty to let any one see the prisoner in the presence of his lawyer, &, if he wished, he would call Mr. Snyder up, & at Thomas' request Stanley called Snyder and locked us three in the cell together. I asked Snyder what was the charge against Thomas. He said he did not exactly know, but there was a reward offered for him in Missouri. Snyder then repeated his plan for getting Thomas off. He said we could get off on a late train & go to Norfolk, Va., get a passport, and he (Thomas) could go to a foreign country. Snyder examined the schedule of R. R. trains, and found there would be no train later than 12 o'clock, but said we could shave Thomas &
110 take him in a close hack to Ringold, across the Georgia line, where he could take an early morning train. He asked me if I had brought the money, & I told him I had, and that it was at the hotel. He said he could easily satisfy the officers with the money & get off out of reach before day. He asked me what I thought of his plan. I told him it was all new to me & I was not prepared to say. Snyder's proposition had convinced me that something was wrong, & I didn't propose involving myself in any such schemes. Snyder said if I undertook to contest the matter that he would be out, & intimated that he would be on the other side & again urged the ne-

cessity of acting that night. Thomas said but little in this interview.
Snyder started to relate something, but said "he could not
111 mention that in the presence of three." I proposed to retire
& called & Mr. Stanley came & let me out. Some one told me to wait for Snyder in the jail office. I went to the hotel, related my experiences to Blount, who had gone to bed. Soon Snyder came to the hotel & wanted me to give him the money I had brought, & again urged the carrying out of his plan, & said on account of publications it would be too late by morning, & again said if I contested the matter he was out of the case. I was aroused at 12 o'clock that night by the porter, saying 3 men wanted to see me below. I declined to see them. When Snyder & I parted that night the understanding was that I was to see him at 11 a. m. the next day & let
him know what I intended to do. I had determined in my
112 own mind to consult Geo. T. White, a lawyer Mr. Blount told me he knew in Chattanooga, before doing anything. The next day, being Thursday, I employed Messrs. Elder & White, att'ys, to assist me in Mr. Thomas' case. At Mr. White's suggestion we went to see Mr. Thomas at the jail. We saw def't Snyder ahead of us walking fast in the direction of the jail. He had passed us at the 3rd National Bank, where we had stopped to deposit some money, & walked on ahead of us. As we turned the corner of the street we saw Snyder come out of the jail and go over toward the court-house. When we got in the jail we found Jailer Adams & asked to see Mr. Thomas. He said that Mr. Stanley had that matter in charge & we would have to wait & see
him; that he would be in shortly. White left Blount and
113 I at the jail & went to the office of the justice of the peace, who issued the warrant for Thomas' arrest to see what information he could get. While he was gone Stanley came in & when White returned he told Stanley we wished to see Mr. Thomas. Stanley said that he could not let us see him; that Sheriff Springfield had left instructions with him (Stanley) not to let any one, except his att'y, see Thomas, & that Thomas had employed Snyder as his att'y. White told him he had been employed by Thomas' friends to represent him. White tried to reason the matter with Stanley; told him I was an att'y employed by Dr. Whitlege on the strength of the telegrams, who had come from Fla. in answer to telegrams to
see him, & that the prisoner had a constitutional right to see
114 his counsel. Stanley still refused, & White told him if he did not permit us to see him he would sue out a writ of *habeas corpus* for him. Stanley said if he did he would take or send Thomas to Missouri. During the time White took Stanley out of the room & talked with him some time. We failed to get to see Thomas, though Stanley told us he would consult his att'y & let us know at Elder & White's office his final decision. We went to Elder & White's office & White began to prepare a petition for writ of *habeas corpus*. We, White & myself, then started to the depot to take the train to go to Cleveland, where Judge Trewitt was holding court, to get a writ of *habeas corpus*. On the way we met Stanley, and White asked him if he would let us see Thomas. He said his counsel

had advised him not to let us see Thomas. We took the train at 12.10 p. m. for Cleveland, got the writ, & returned at 3.30 p. m., & had it served the same afternoon. On Friday morning, Sept. 7th, I next saw Stanley: he was at the jail. White & I called & asked him if we could see Mr. Thomas. Stanley again refused to let us see him. White asked Stanley to select any number of guards he saw fit; that we would pay the expense & let Thomas be guarded at the hotel. He declined to do this. We then asked him if he would accept a bond for Thomas. He said he had rather not talk about the matter, but said we could make the bond. We made and tendered a bond for $5,000.00, the amount required. Stanley examined the bond and said it was sufficient, but that he did not admit that Thomas was in jail. White asked him whether or not he was in jail, & Stanley said he preferred not to talk about it, & took the bond and started away from the jail, saying he would be back presently. White, Elder, & I started after him in a few minutes. When we got to the corner of 7th street we saw Stanley and Snyder going down 7th St., ahead of us, together. They turned up Market St., & I next saw Stanley come down a stairway onto Market St. He came up to Elder & White & gave them a letter. I walked up to where they were reading the letter & Elder handed it to me & said "Here is a letter from Thomas to you." I commenced to read it, and had read about two lines when Elder called me & we started up the stairs leading to his office. Stanley ordered me not to take the letter off & started to me to get it. Elder held out his hand to get it & I handed it to him. Stanley rushed at Elder to take it from him. Elder passed it behind him to me, but before I could get possession of it Stanley had hold of it & had I not let it loose it would have been torn. Stanley then threw the bond on the steps, saying, "There is your document," and walked away without letting me see the letter which was addressed to me & Blount. We made every possible effort to see Thomas but failed. We employed parties to find out, if they could, whether or not he was still in the jail, and, while there were many conflicting rumors, we did not know positively whether he was in jail or not until Monday, Sept. 10, when Stanley, Springfield & Snyder made their returns to the writ of *habeas corpus*, & then for the first time we knew that Thomas had been removed from the jail the Thursday previous. Sheriff Springfield produced a letter from Thomas that day, dated McFarland's, Ga., Sunday, Sept. 9th. Elder & I at once got horses and went to McFarland's to find him. We found where Snyder, Springfield, Sloop, Turney, Thomas, and others had taken dinner on Sunday, but could not find him. I also made another trip with McFarland on Missionary Ridge to try to find him, but failed to get trace of him. I desired to find him to secure his release & satisfy him he was being duped by his captors, who were, in my opinion, holding him to get his money. I was anxious to bring him before the court & show up the whole matter. I was employed by Dr. Whitledge to represent Thomas, & I was discharging my duty to my client as I understood it.

Testimony of Geo. T. White.

GEORGE T. WHITE, a witness for pl'ff, testified:

I am engaged in the practice of law at Chattanooga, Tenn., & have been for about eleven years; know the defendants very well. On Thursday, Sept. 6th, 1883, J. H. Humphries, of Fla., employed the firm of Elder & White, of which I am a member, to secure the release of Geo. H. Thomas, who was then, as he represented, illegally imprisoned in Hamilton county jail. At my suggestion we started to the jail to see Mr. Thomas. En route we stopped in the 3rd National Bank to make a deposit, & while there def't Snyder
120 passed out of the b'nk & walked rapidly in the direction of the jail ahead of us. When we got to the corner of Walnut & 7th Sts. I saw Snyder come out of the jail and go over towards the court-house. We went into the jail and spoke to Dep'ty Sheriff Simeon Adams about seeing Thomas. He said that Mr. Stanley had him in charge; we would have to see him about that; that Mr. Stanley would be in presently. Blount & Humphries sat down, & I asked to see the mittimus. I was shown a paper writing, of which the following is a copy:

Mittimus Issued by J. P. to Commit Geo. H. Thomas.

CHATTANOOGA, TENN., *Sept.* 1*st*, 1883.

To the county jailer:

Geo. H. Thomas is charged *of* being a fugitive from justice, and through Officer H. L. Sloop waived examination, and he,
121 failing to give the required bond of five thousand dollars, until further orders of the court you are therefore commanded to take said Geo. H. Thomas into your custody and safely keep him until he is legally discharged.

Given under my hand, at office, this the 1st day of Sept., 1883.

G. M. SHERWOOD, *J. P.*

Endorsed: No. —. Mittimus. State *vs.* Geo. H. Thomas.

I saw it was signed by Esqr. Sherwood & left Blount & Humphries at the jail & went to Esqr. Sherwood's office to see what information I could gain there. Sherwood showed me a paper which he said was the warrant under which Thomas was arrested,
122 & on the back of it was endorsed his judgment. (Said paper & endorsements is copied in Geo. H. Thomas' testimony and is here referred to.) When I got back to the jail I found Stanley in the jail office. I told him I had been employed to represent Mr. Thomas, & that I wanted to see him. He said he could not let me see him; that Springfield (the sheriff) had gone to Missouri & had left orders not to let any one see Thomas. I told him Springfield had no right to make any such orders; that, as his counsel, I had a right to see Thomas. Stanley said he did not recognize me as his att'y. I then explained to him how I was employed;

that Thomas had telegraphed to his friend Whitlege in Fla. & Whitlege had sent Humphries an att'y there, & that
123 Humphries had employed me & offered to show him the telegrams Thomas had sent, but he said he had seen the telegrams. He said if I could show him that I was employed by Thomas' mother, father, or near relatives he would let me see him. I told him that would not do; that, if that was so and a man got in jail who had no relatives, he would not be able to employ counsel at all. I told him Thomas had a constitutional right to see his counsel. He said Thomas had a lawyer. I asked who; he said Snyder. I told him he had a right to have more than one lawyer.
After talking at some length I asked him to step on the out-
124 side of the office, and I there urged & reasoned with him for some time to let me see Thomas. Finally he said he would let me know at 12 o'clock, at my office, what he would do. I told him I could not wait that long; that I thought, unless he let me see Thomas, I would take the noon train for Cleveland, Tenn., where Circuit Judge Trewitt was holding court, for the purpose of getting a writ of *habeas corpus*. He said if I did that or if I forced him to it, he would get on the train & take Thomas back to Missouri; that he had waived a requisition, & I could not hurt him for doing it. I told him if he did I would make it pretty warm for him. I then asked him if he could not let me know at my office at half
125 past eleven o'clock what he would do, so I would have time to take the train for Cleveland, which left at 12.10 p. m. He said he would. Blount & Humphries & I then went to my office, & in consultation with Elder determined we would sue out a writ of *habeas corpus* if Stanley still refused to let us see Thomas. I began to prepare the petition & wrote until time to start for the train & after the time Stanley had appointed. We then started for the train. On the way we met Stanley. He said he had taken advice and would have to adhere to his first determination. We went on to the car-shed & Humphries & I went to Cleveland, obtained
126 a writ of *habeas corpus*, returned at 3.30 p. m., & had it served at about 4 p. m. the same day. The next morning, Friday, Humphries and I went to the jail to try again to have an interview with Thomas. Stanley was there & told us we could not see him; that we had resorted to our remedy & to follow it. I asked Stanley if he would not let us pay guards to guard him at the hotel, & told him that he could employ any number of persons he saw fit & we would pay them; that Thomas had money, was a refined gentleman, & it would not be so humiliating. He declined to do this, & said he did not want to talk to me on the subject. I then proposed to make a bond for him & told him we would do that. He
127 said he supposed we could do that. I asked him to give me the blank form of a bond to be filled out. He then said, as he gave me the blank form, "But I do not admit that Thomas is in jail." I asked him to tell me whether or not he was in jail. He said he would not do it. I told him we would make the bond anyway, & started to leave the jail office with the blank bond in my hand. When we had gone part of the way to the gate I went back to the office door

& said "Charley" (addressing myself to Stanley), "tell me whether or not Thomas is in jail; it will be but child's play to be mak-
128 ing a bond if the prisoner is not here." He said he would not tell me, & I could do as I pleased. We at once made & tendered a $5,000.00 bond, which Stanley said was satisfactory. He took the bond & left the jail, saying he would be back directly. In a minute or such a matter Humphries & I followed after Stanley. When we got to the corner we saw Stanley & Snyder walking rapidly down 7th St. together, Stanley carrying the bond in his hand, I think. They went up the stairway leading to Clift's office. I followed on, & in passing the door saw Stanley, Snyder, & C. C. Everett examining a law book, I thought to be the code of Tennessee. I went to the bottom of my office stairs, near by, & in a few minutes Stanley & Snyder came down the stairs together. Sny-
129 der looked up, saw me, and turned into a store. Stanley came to where I was standing & handed me an open letter, addressed to "Humphries & Blount," saying, "Here is a letter you may read." About the time I had finished reading it Humphries came up and I handed it to him.

Stanley said to give the letter back to him. I said, "Let Humphries read it; it is addressed to him." Just then I was called a few feet away by a party on other business, & while standing there I heard a scramble on the office stairs, looked around, & saw Stanley leaving the foot of our office stairs & found Elder & Humphries on the stairway with bond. We had no intimation of
130 Thomas having been carried off until Stanley said when we proposed to give bond, that he "did not admit that Thomas was in jail." This, Stanley's, conduct aroused our suspicions, & we set about finding out whether or not he was in jail. We employed a detective & did everything in our power to ascertain, but were unable to do so, & did not know certainly whether Thomas was in jail until Monday, Sept. 10, when Stanley & others made their returns to the writ of *habeas corpus*.

Stanley's First Return to Writ of Habeas Corpus.

Answer of Chas. E. Stanley, deputy sheriff of Hamilton county, to the writ of *habeas corpus* served upon him by A. M. Carey,
131 coroner of Hamilton county, demanding the body of Mr. Geo. H. Thomas.

To the Hon. D. C. Trewitt, judge of the 4th judicial circuit, in Tennessee:

The def't, C. E. Stanley, states that on the 1st day of Sept., 1883, the said G. H. Thomas was committed to jail of Hamilton county by mittimus issued by G. M. Sherwood, a justice of the peace for Hamilton county, a copy of which mittimus is herewith filed, marked Exhibit "A."

Said Thomas was committed to jail, as aforesaid, and was kept in custody until Sept. 6th, at about 1.30 o'clock p. m., when one H. Sloop, who def't was informed had originally arrested said Thomas

and was instrumental in having him committed, applied for
132 the prisoner, Geo. H. Thomas, at the jail, and, by virtue of an order of G. M. Sherwood, J. P. for Hamilton county, he was discharged from jail, and openly & publicly left the jail in company of said H. Sloop, and since that time the def't, Stanley, has had no personal knowledge of his whereabouts; that at the time said Thomas left his custody in company with said Sloop he had no information nor knowledge that a writ of *habeas corpus* had been granted.

Further affiant sayeth not.

C. E. STANLEY,
Dep'ty Sheriff.

CHATTANOOGA, TENN., *September 1st*, 1883.

To the county jailer:

Geo. H. Thomas is charged of being a fugitive from justice,
133 and through H. L. Sloop waived examination, & he failing to give the required bond of five thousand dollars, until further order of the court—

You are therefore commanded to take the said Geo. H. Thomas into your custody & safely keep him until he is legally discharged.

Given under my hand, at office, this the 1st day of Sept., 1883.

G. M. SHERWOOD, *J. P.*

Endorsed: Copy. Mittimus. State *vs.* Geo. H. Thomas. Exhibit "A."

Stanley's 2d Return to Writ of Habeas Corpus.

The further answer of C. E. Stanley, dep'ty sheriff, to the writ of *habeas corpus* in the G. H. Thomas case.

In this case C. E. Stanley, further answering, says that after
134 he turned the said G. H. Thomas over, as stated in his original answer, to H. Sloop he had no further custody, power, or control of him, and that said Sloop told him at the time that he was going to take the prisoner to Missouri, and said Thomas, having in writing and by his attorney waived a requisition and agreed to be removed from the State, he honestly felt it to be his duty to turn him over to said Sloop, which he did, as before stated; and, further, it is true that Geo. T. White told me that he would apply for a writ of *habeas corpus*, but as I knew the fact that Geo. T. White was not the employed attorney of said Thomas, and because that he was interfering with business which did not
135 concern him and that he was making a false statement to me in order to coerce & bulldoze me to accede to his request to see the prisoner, when the prisoner had informed me that no one but Mr. Snyder was his attorney and authorized to represent him, and when I regarded said Thomas not only as a sane man, but a man of more intellectual force and better balance than said White, I did not for one moment believe that said White could or would obtain a writ of *habeas corpus*. I stated to White at the time if he

could or would give me satisfactory proof that he represented any relative of his or the guardian of said Thomas or Thomas
136 himself that I would allow him to see the prisoner, but this he admitted he could not do, which still more & more made me believe and feel confident that he could not obtain a writ of *habeas corpus* for said Thomas, and further induced me to believe if he applied for any process it would be a mandamus to compell me to admit him to the jail that he might have a conference with a man he had shown no legal right to see & he admitted it. Therefore affiant states that, honestly entertaining the opinion & belief aforesaid, he did not for one moment entertain the idea nor
137 purpose or intention, at the time he turned said Thomas over to Sloop, to evade, prevent, or hinder the service of a writ of *habeas corpus* and it was not done for that cause or purpose.

He further states that on the same night said Humphries or Whitledge (whichever his name may be) came he admitted him to the jail in company with C. C. Snyder, and the three were left in a separate room to themselves—Snyder, Thomas, and Whitlege, *alias* Humphries—for about the period of one hour and a half, and until he was called by them to let them out; and after this conference with Humphries, *alias* Whitlege, said Thomas refused to recognize him as his att'y, and so stated in presence of Jailer
138 Adams; and, further, when the said Humphries, *alias* Whitlege, swore in the petition that he was not permitted to see the said Thomas and confer with him he stated an absolute and unqualified falsehood.

He now states without equivocation that from the time he turned over said Thomas to said Sloop that he has had no custody, power, or control over the said Thomas; that he has been reliably informed and believes that said Thomas has been discharged from custody and is now at liberty to go when & where he pleases, and that he voluntarily refused to return to Chattanooga or to have any-
139 thing to do with the "*habeas corpus*" proceedings.

Further aff'nt sayeth not.

C. E. STANLEY.

Endorsed: Filed Sept. 11th, 1883. A. R. Jones, clerk.

We did every thing we could after we learned Thomas had been taken out of jail to find and liberate him. Dr. Whitledge, who had been telegraphed for & who came to Chattanooga from Fla., & I made a trip out into Ga. on horseback, & also went up the C. S. R. R. to Junction City., Ky., some 300 miles, & Dr. Whitledge went on to Columbus, Ohio. During this time I never spoke to Mr. Snyder about the case. I suggested to Humphries that he be con-
140 sulted, but he was so indignant over Snyder's propositions the night before he would not agree to it. Stanley & I had not been unfriendly; on the contrary we had always been friendly & I had thrown business in his hands as dep'ty sheriff. All he said when he showed me the letter at the bottom of my office stairs was, "Here is a letter you may read."

Testimony of J. C. Blount.

J. C. BLOUNT, a witness for pl'ff, in his deposition aforesaid in substance testified :

I am a real estate agent; live in Bartow, Fla., and have known Geo. H. Thomas for about two years; he has during this time sustained a good character. In Sept., 1883, I, while en route to
141 the Louisville Exposition, stopped off with J. H. Humphries at Chattanooga. I introduced Humphries to Geo. T. White, an old friend of mine, & he employed him to assist him in Mr. Thomas' case. I went with White & Humphries to the jail. Snyner went ahead of us to the jail. I saw him go from the bank & he came out of the jail just before we got there & went towards the court-house. When we got to the jail White introduced us to Adams, the jailer, & told him we wanted to see a prisoner named Thomas. Adams said we would have to see Stanley about that, as he had that matter in charge, and that he would soon be in. White went out to see the justice who had bound Thomas over,
142 & when he returned Stanley was there & White told him he had been employed to represent Mr. Thomas & desired to see his client. Stanley positively refused to let White see Thomas. Stanley said he had instructions from Sheriff Springfield not to allow him to see Thomas. White repeatedly insisted that he & Humphries were Thomas' attorneys & had a right to see Thomas, but Stanley would not let them & said he would not recognize them as Thomas' att'ys. White took Stanley outside & talked to him a good long time. I did not intend to stop off but one night, but when we got to the hotel Wednesday night some one, whom I after-
143 wards learned was Snyder, came & took Mr. Humphries away, and when he returned to the hotel Humphries told me that he was satisfied Thomas was being blackmailed, &, from what he said had been proposed to him, I thought so too, & determined to stay over to introduce Humphries to White, whom I had formerly known in Fla. When we failed to see Thomas at the jail we returned to Elder & White's office, when it was determined to apply for a writ of *habeas corpus*. Within a half hour White & Humphries started to Cleveland after it. I went to the hotel with them. On the way we met Stanley, & White had some conversation with him, which I did not hear. Directly after White & Humphries
144 had gone into the depot to the train, to go for the *habeas corpus*, Snyder came out of the depot & walked rapidly in the direction of where we had last seen Mr. Stanley.

Testimony of W. T. Whitledge.

Dr. W. T. WHITLEGE, a witness for pl'ff, testified in his said deposition in substance as follows:

I know Geo. H. Thomas & have known him for about 4 years. I knew him in Missouri. He was engaged in saw-mill business & bore

a good reputation & sustained an unblemished character. I never heard of any criminal charges against him in Missouri or elsewhere at any time. When arrested at Chattanooga he telegraphed me to send him 800 dollars in care of C. E. Stanley, dep'ty sheriff, & that it must reach him by Wednesday. These telegrams reached
145 me Saturday evening, Sept. 1st, 1883. We only have 3 mails a week at Bartow & no express, & I knew, to get the money to him by the time he wanted it, I would have to send it by a special messenger, so I employed J. H. Humphries, att'y at Bartow, to carry him the money & investigate the charges against him & secure his release. In obedience to telegrams I afterwards went to Chattanooga, Tenn., myself & tried to find out what had become of Thomas, & in search of him went as far North as Columbus, Ohio. I & others did every thing in our power to find & release him, but we were not able to do so. I know he was put to great expense, & that published newspaper accounts of his arrest & imprison-
146 ment reached his home & were widely circulated & greatly damaged him.

Testimony of Geo. M. Sherwood.

GEORGE M. SHERWOOD, a witness for pl'ff, testified as follows:

I was an acting justice of the peace for Hamilton county, Tenn., in 1883, and as such issued the warrant and mittimus for the arrest and imprisonment of Geo. H. Thomas in Sept., 1883. The mittimus copied with Geo. T. White's testimony is the one issued by me. Thomas did not waive examination before me. Sloop came to me and said that Thomas did not desire an examination, and I then made the endorsement that appears in the warrant. I then wrote the mittimus which is copied with Geo. T. White's testimony.
147 I signed the order delivering Thomas to Dep. Sheriff Stanley to be conveyed out of the State of Tennessee. This order I wrote on back of a paper purporting to be signed by Thomas waiving requisition, which paper & order is copied with Geo. H. Thomas' testimony.

Testimony of Solomon G. Kitchen.

SOLOMON G. KITCHEN, a witness for pl'ff, testifies as follows:

My name is Solomon G. Kitchen I am an attorney-at-law and reside at Dexter City, Stoddard Co., Mo. I have been engaged in the practice of law about forty years; have practiced in the State circuit courts and in the United States courts in St. Louis, Mo., and the ct. courts in the counties of Wayne, Reynolds, Oregon,
148 Ripley, Butler, Stoddard, Dunklin, Mississippi, Scott, & New Madrid. I became acquainted with Geo. H. Thomas in the year 1880. Soon after I became acquainted with Thomas I was employed as an att'y for him, and was his counsel and adviser in legal matters while he remained in Mo. The greater part of the last two years of his stay in Mo. he made his home at my house in Dexter City. The first year of his stay in Mo. he was engaged in

saw-milling at Poplin, 14 miles from Dexter City. I never knew a more perfect gentleman in all his business relations than Geo. H. Thomas. I never knew or heard of any criminal charge against him while he remained in Mo. If there ever had been an
149 indictment or other criminal charge against him in Southeastern Mo. I certainly would have heard of it.

Testimony of Thos. J. Ulm.

THOMAS J. ULM, a witness for pl'ff, testifies as follows:

My name is Thomas J. Ulm; aged 37 years, and reside at Dexter City, Mo. I am a merchant. I know Geo. H. Thomas; formed his acquaintance in July, 1880, in this county. Mr. Thomas came to my mill at Poplin, in this county, at that time, and I sold him my saw-mill. Mr. Thomas operated said mill about one year. I worked for him as superintendent of said mill for several months in 1881. I know that Mr. Thomas' character & reputation were good in this section of the country. In the latter part of 1882 Thomas
150 was my book-keeper at this time. I never heard of Thomas being accused of crime, and from my acquaintance with him I regard him as a perfect gentleman & a responsible business man.

Testimony of H. J. Springfield.

Defendant SPRINGFIELD testified:

I was in my office at the county jail on Saturday, Sept. 1st, 1883, about noon, when Policeman Sloop came in with Geo. H. Thomas. Sloop said he had a prisoner and desired a conference with me. I retired with him to a private room in the jail. Thomas said that he had been arrested, charged with a crime in Missouri, where he formerly lived, but had committed no crime. He supposed
151 from what the officer had said that his arrest was caused by the finding of fragments of a letter which he had written and torn up in his room at his boarding-house. He said that he had lived in Mo. Def't Springfield asked pl'ff why he passed under an assumed name. Plaintiff told him it was to avoid vexatious & unjust suits being brought against him in Mo., but that there were no criminal proceedings against him. I examined his person and took from him two hundred dollars in money. I asked Sloop if he had a mittimus. He said he had no mittimus. I told Sloop it was his duty to take him before a justice of the peace for examination. Thomas began to object to going before a justice of the peace,
152 and said he preferred to let me investigate the matter in Missouri, as I was going to start to the neighborhood of the locality where he had lived the following Monday. I refused to receive the prisoner and went off. I was at the jail during the afternoon and learned that Thomas had been confined in the hospital cell of the jail. When I left for Mo. I left Stanley in charge of all my business as my chief deputy. The two hundred dollars which I took from Thomas I deposited in the 1st National Bank of Chattanooga as a special deposit, and told Stanley that if Thomas was re-

leased before my return from Mo. to get the money and give it to him, & directed the bank to let Stanley have the money if
153 called for. The following Monday I left for Missouri. I returned to Chattanooga the following Sunday, arriving there about 5 o'clock a. m. I enquired of Stanley where I could find Thomas for the purpose of returning the $200.00 to him, which I learned had not been given back to him by Stanley, my dep'ty. Stanley said he would see Snyder and find out where Thomas was. He learned he was about four miles from Chattanooga, over the Georgia State line. I went out there and met him about eleven o'clock a. m. Snyder, Balch, Sloop, and Jim Turney and some others were present. I paid him $50.00, which was all the money I had with me, and told him I would pay the balance to any
154 one he might direct. He gave me an order to pay $150.00 to Snyder (which order reads as follows—which is copied with Thomas' dep.). I paid the money, as shown by endorsements on the order.

On cross-examination he said:

I never saw the paper called a mittimus, under which Thomas was held, until it was filed with the *habeas corpus* proceedings for release of Thomas. I do not remember whether Thomas said he wanted to employ an attorney or not when I told Sloop that he ought to take him before a justice of the peace. He may have said that he wanted one. I never suggested any to him. Snyder came with Sloop when he brought Thomas to the jail, and was in the private room
155 at the jail when the examination of Thomas took place. I took charge of his money ($200.00) at the time I searched him. I was about the jail in the afternoon of Saturday and knew that Thomas was confined in jail. I told Deputy Sh'f Stanley to get his money if he was released before I got back.

I held him by virtue of this mittimus (copied with George T. White's testimony), and had no other authority for holding him. When I saw Thomas in Georgia and paid him the $50.00, &c., I told him that I had been to Dexter City, and that there were no criminal charges there against him, but that I had not been to Poplar Bluff and did not know what might be there, and I told him that if
156 I got any warrant for his arrest that I would do my duty, but that I would not go out of the State of Tennessee to execute any paper.

The witness did not remember that he was a party to the *habeas corpus* proceedings, but when handed his return he said that it was the return made by him in that case. Witness went to Missouri to investigate a report of the death of a desperado named John Taylor, who had murdered the former sheriff of this county and escaped.

Springfield's Return to the Writ of Habeas Corpus.

To the Hon. D. C. Trewitt, judge of the 4th judicial circuit in Tennessee:

In response to the writ of *habeas corpus* issued for the body of G.

157 H. Thomas, it having been insisted in argument of att'y for petitioner that the sheriff, H. J. Springfield, should be compelled to answer said writ, he now comes and voluntarily files this his answer to said writ of *habeas corpus:*

He states that after his return from Missouri on yesterday—Sunday morning—he received information that G. H. Thomas, who had been discharged from the jail of Hamilton county, would meet him near the line between the State of Tennessee and the State of Georgia, and wanted to see him to get his money. Understanding he had been discharged from custody & was at liberty, he went to the
158 place designated for the purpose of delivering to him two hundred dollars in money, the am't he got from him when committed to jail. He went to the place designated and found him at liberty and under the control, power, or custody of no one, so far as I know, and in the State of Georgia.

I told him it would be perfectly safe for him to come to Chattanooga, so far as I knew. I had investigated his matters at Dexter, Mo., and found nothing against him, but I had not heard from Poplar Bluff, Mo., but did not believe they wanted him there.

Said Thomas further said to me that he had heard about Humphries being in Chattanooga, but that he was not his
159 attorney; that the proceedings by White & Humphries were not brought by his consent or knowledge; that Mr. Snyder was his att'y; that he had employed him to wind up his business here and in Missouri, and further that he (Thomas) inquired the address of the judge before whom the writ of *habeas corpus* was pending, and, of his own free will and accord, wrote the letter which he brought and delivered to Hon. D. C. Trewitt on yesterday, Monday, the 10th inst., which he makes an exhibit to this his return and makes it a part of the same. When he left him he was free and at full liberty to go when and where he pleases, so far as I know,
160 and he, of his own free will, refused to return to Chattanooga with him. He further states that at the time said Thomas was, by order of G. M. Sherwood, turned over to Mr. H. Sloop, affiant had not returned from Missouri and had the money in special deposit in First National Bank, and therefore said Stanley or Adams did not turn the same over to him; consequently his anxiety to find him and deliver the money to him; also to investigate the matter and see for himself that he had been properly treated, both of which he did.

Further affiant states that from the interview he had with said G. H. Thomas he is a man of good mind and fully in possession of all his mental faculties and apparently 35 years of age.

161 Further aff't says that said Thomas is not now under his control, custody — or power of either of his deputies or jailers.

Further aff't saveth not, and he asks that said petition be dismissed upon motion.

H. J. SPRINGFIELD, *Sheriff.*

Sworn to and subscribed before me Sept. 11, 1883.

D. C. TREWHITT, *Judge, &c.*

Endorsed: Filed Sept. 11th, 1883. A. R. Jones, clerk.

D. M. Doty testified as follows:

In 1883 I was lieutenant of the police force in Chattanooga,
162 Tenn.; about Sept. 1st, 1883, a man came to me and said there was a man boarding at his house whose manner was such as to lead the landlord to suspect he had committed some crime and was secreting himself to avoid arrest; the landlord gave him the pieces of a letter which he said that he (the plaintiff in the case) had written and torn up; the pieces were put together so that the letter could be read; it was addressed to Dr. W. T. Whitledge, of Bartow, Fla., and informed him that the writer had grave apprehensions that he would be arrested and carried back to Mo.; that he wanted to go to some foreign country—Yucatan or some other place; it requested Dr. Whitledge to
163 allow his whiskers to grow, so that he would resemble the writer, & then in the writer's name to procure a passport to Yucatan. It also requested Dr. Whitledge to proceed to Washington, D. C., and acquaint himself with the extradition treaties between this Government and others, so that the writer might go to a country where he would avoid being extradited; that the writer could not live with the penitentiary staring him in the face. (It was admitted by the plaintiff that he wrote & tore up this letter.)

Witness Doty went before a magistrate and took out a warrant, after advising with Chas. C. Snyder (one of the defendants
164 in this suit), which charged the plaintiff with the offense of "being a fugitive from justice."

The def'ts offered to read and were proceeding to read in evidence the deposition of B. J. Morrow and copies of telegraps attached to said deposition; a copy of said deposition is hereunto attached, marked Exhibit "B," and made a part of this bill of exceptions.

Telegrams of B. J. Morrow.

The Western Union Telegraph Company.

		40		2 p. m.

Received at Chattanooga, Tenn., Sept. 10th, 1883.

Dated Neosho, Mo., 10.

To city marshal, Chattanooga, Tenn.:

Hold Humphrey & Thomas. Send description by mail. Letter sent.

B. J. MORROW.

165 The Western Union Telegraph Company.

		30		11 a. m.

Received at Chattanooga, Tenn., Sept. 11, 1883.

Dated Neosho, Mo., 11.

To J. H. Allen, ch'f police:

They are charged for murder, if the right men. Wait for letter.

B. J. MORROW.

Interrogatories Propounded to B. J. Morrow.

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEORGE H. THOMAS *vs.* H. J. SPRINGFIELD *et al.*

Interrogatories to be propounded to J. B. Morrow, a material witness for the defendants, who resides in Neosho, Missouri.

166 It is agreed by the counsel for the plaintiff and defendants that the witness may answer the annexed interrogatories and cross-interrogatories, swear to his answers before an officer authorized by law to take a deposition — the Federal court, and we agree that the officer taking the deposition may seal it up and send it by mail to A. R. Humes, clerk of the said court.

Caption and certificate are waived.

(Signed) DE WITT, SHEPHERD & FRAZIER,
Attorneys for Defendants.

(Signed) WHEELER & MARSHALL,
ELDER & WHITE,
Attorneys for Plaintiff.

Interrogatories.

1st interrogatory by defendants' attorney. State your name,
167 age, place of residence, and your occupation or business.

2nd by same. Please look at the attached telegram, which purports to have been sent by you Sept. 10th, 1883, and state whether or not you sent said telegram, and also give the date when you sent it.

3rd int. by same. Please explain fully why and under what circumstances you sent the telegram; what induced you to send the telegram.

4th. Also please look at the attached telegram, which purports to have been sent by you Sept. 11th, 1883, and state whether or not you sent that telegram, and also state why you sent it.

168 5th. State whether or not you know the defendants, H. J. Springfield, Chas. E. Stanley, and C. C. Snyder, or either of

them; state whether or not they or either of them in any way procured you to send the telegrams above enquired about; state whether or not you ever had any conference or correspondence with either of them before you sent said telegrams.

Cross-Interrogatories.

1st. How far is Neosho, Mo., from Pine Buff and Dexter City, Mo.?

2nd. How and from whom did you get the names of Thomas and Humphreys, and what led you to telegraph here about them?

169 And if anything written or printed had anything to do with your sending the telegrams please attach the communications to your deposition, and if you cannot attach the original, attach a copy; and if you cannot attach a copy, state the substance of such communications, when received, from whom and from what place.

3rd. Did J. A. Allen, chief of police, answer your telegrams or other communications? If so, please attach his answer to your deposition; and if you cannot, give its substance and date.

4th. Please attach to and make a part of your deposition

170 all telegrams, letters, and other communications you received from parties here or elsewhere relative to Thomas or Humphries, and if you cannot attach the originals attach copies, and if you cannot attach copies please give the substance of all communications received by you from here or any other point, and give the date thereof, the place from where sent, and from whom.

5th. Who wanted Humphries & Thomas and how did you know they were wanted And attach any telegram or written or printed evidence that they were wanted to your deposition.

6th. Give the names of all persons with whom you have

171 been in communication concerning the arrest of Humphries and Thomas.

7th. Did you send a letter or telegram (other than the two hereunto attached, dated Sept. 10th & 11th, 1883) or other communication to J. A. Allen, chief of police? If so, attach said communication or a copy thereof to your deposition, and if you cannot do this give the substance of all communications from you to said Allen.

8th. If you communicated with any one else here or elsewhere concerning Humphries and Thomas, state with whom, and give the original communication, if you can; if not, a copy; and if

172 you cannot procure a copy, give the substance of such communication.

9th. Whom had been killed and when and where had the murder been committed for which you wanted Humphries and Thomas held?

10th. Describe minutely and particularly the personal appearance of the murderers, giving their age, weight, height, occupation, &c., &c.

Deposition of B. J. Morrow.

In the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee.

GEO. H. THOMAS *vs.* H. J. SPRINGFIELD *et al.*

B. J. MORROW, of lawful age, being first duly sworn, in answer to the interrogatories and cross-interrogatories hereto attached,
173 deposeth and sayeth in answer to 1st interrogatory:

My name is Barton J. Morrow; I live in Neosho, Newton county, Mo.; my age is 43 years; I am recorder of deeds within and for Newton county, Mo.

Answer to 2nd interrogatory: The telegram attached to interrogatories dated 10th Sept., 1884, was sent by me; it is the same as sent, if my recollection serves me right. I think the date of the telegram is correct.

Answer to 3rd interrogatory: In looking over the papers of Sept. 8th or 9th, I think the St. Louis Republican, my attention was called to the arrest of parties in Chattanooga by the name of Humphries and Thomas. I think that the head lines were "Im-
174 portant arrest in Chattanooga." Upon reading the item it struck me that Humphrey was probably one of the men who killed a man in our county by the name of Anderson, and that possibly Thomas was an accomplice; the murder was committed in our county by three men; one of them was captured in Southeast Missouri and brought back and convicted and sentenced to the penitentiary for a period of 99 years, the other two escaping; at the time of the murder I was clerk of the circuit court of Newton county, Missouri, and knew of the indictment of all the parties and of the conviction of one of the parties (1 Thomas Killian). I showed
175 the article referred to to the prosecuting attorney of Newton county and he advised me to telegraph to the marshall at Chattanooga, which I did; at the same time I wrote a letter to the marshall and cut a slip from one of the Neosho papers, giving a history of the killing and also a description of the persons engaged in it, and I think I sent him the slip cut from the St. Louis paper that called my attention to the arrest.

Answer to interrogatory No. 4: I sent the telegram of Sept. 11th in reply to a telegram from Marshall Allen. In the telegram from J. A. Allen he asked me the charges against Humphrey and Thomas, and I sent the telegram of Sept. 11th in answer to that telegram.

176 Answers to interrogatories Nos. 5 & 6: I do not know H. J. Springfield, C. E. Stanley, or C. C. Snyder, or either of them. Neither of them ever in any way procured me to send the telegrams above enquired about. I never had any conference or correspondence with either of them before I sent the said telegram.

Answer to 1st cross-interrogatory: It is about 325 miles from Neosho, Mo., to Poplar Bluff, and about the same distance to Dexter City.

Answer to 2nd interrogatory: As answered to direct interrogatory No. 3, I got the name of Thomas and Humphrey from the "St. Louis Republican" or "Globe-Democrat." I take the Daily
177 Republican, and the item was published under the head of "Criminal news." I am very certain it was in the "Daily Republican" of Sept. 8th or 9th, 1883; may be possible it was in the "Globe-Democrat" of that date. I have not got the paper in which it was published and cannot attach — to these depositions, but the substance was that the two men were under arrest and were suspicious characters. The item referred to called the attention to the arrest as an "important arrest." I take the St. Louis Republican daily and occasionally read the "Globe-Democrat."

Answer to 3rd cross-interrogatory: J. A. Allen answered my telegram and only enquired the charges against Humphrey
178 and Thomas. My telegram of Sept. 11th was in reply to Allen's telegram. I have not the telegram and cannot attach — to this deposition.

Answer to 4th cross-interrogatory: I never received any other telegrams or letters from J. A. Allen or any one else relative to those men—not even a reply to send description of Humphrey and Thomas. I never received but the one telegram about the parties, and that was from J. A. Allen in reply to my telegram of Sept. 10th, 1884, and that was simply an inquiry as to the charge. I dismissed the whole matter from my mind, not hearing from them any more, and supposed that the description sent did not suit either of the men.

179 Answer to cross-interrogatory 5: The sheriff of Newton county, Mo., wanted them if they proved to be the men who murdered Major Anderson; or, in other words, the State of Missouri wanted them. I knew the murderers of Major Anderson were wanted from the facts set out in my answer to 3rd direct interrogatory. I knew of the circumstances of the murder, of the persons charged, of the indictment, and of the arrest and conviction of one of the parties.

Answer to 6th cross-interrogatory: I have never corresponded with any one in relation to this matter except the telegrams sent and hereto attached, and the letter written sending the printed
180 description of the murderers of Major Anderson and history of the case.

Answer to 7th cross-interrogatory: I do not recollect of writing but one letter, and the telegrams and letters of 10th and 11th Sept., 1883, hereto attached, are all the telegrams and letters I sent in relation to the matter.

Answer to 8th cross-interrogatory: My 1st telegram was directed to city marshal/, Chattanooga, Tennessee. The reply was signed by J. A. Allen, chief of police. I don't remember how the letter was addressed. If it was written before the telegram was received, it was directed as telegram of 10th September. If after receipt of answer to 1st telegram, it was directed to J. A. Allen, chief of police. I received no answer to my letter or letters written to city
181 marshal/ or J. A. Allen.

Answer to 9th cross-interrogatory: One John W. Anderson

had been killed—usually called Major Anderson. The indictment alleges that Thomas Killian, John Humphrey, and John Hubbard, *alias* John Wilson, on the 25th day of August, A. D. 1875, at the county of Newton, in the State of Mo., feloniously, willfully, deliberately, on purpose, and of their malice aforethought, did kill and murder John W. Anderson, etc., etc., which indictment was filed in the office of the clerk of circuit court of Newton county, Mo., on the 8th day of November, 1875, by the affiant, B. J. Morrow, who was then clerk of said court.

Answer to cross-interrogatory No. 10: It is impossible for
182 me to describe the parties, as I never saw Humphreys or Hubbard, *alias* Wilson, and I cannot now find a paper giving the description, but the slip—cut from one of our county papers—which I mailed to the marshal at Chattanooga, Tenn., gave a good description of the men concerned in the murder, as it was said by persons who knew them.

BARTON J. MORROW.

STATE OF MISSOURI, *County of Newton:*

I, R. M. Randle, notary public, of Newton county, Mo., whose commission expires Sept. 9th, 1886, do hereby certify that the foregoing answers to the interrogatories hereto attached were made by Barton J. Morrow, he, the said Barton J. Morrow, being by me first duly
183 sworn to give true and perfect answers to such questions as would be propounded to him by said interrogatories; that said answers were reduced to writing by himself in my presence.

In testimony whereof I hereunto set my hand and official seal. Done at office, in Newton, Mo., this the 19th day of September, A. D. 1884.

R. M. RANDLE,
Notary Public, Newton County, Mo.

Notary fee, $1.00.

After the def'ts' att'y had read the 1st, 2nd, & 3rd direct questions and the answers thereto and the telegrams the court, of his own motion, excluded said deposition and the telegrams, the court
184 stating at the time that "said telegrams are subsequent to the commission of the trespass complained of and not material to any issue raised by the pleadings."

To each of the aforesaid rulings and matters each of the defendants duly excepted.

The defendants insisted that the evidence showed that if the defendants Stanley and Springfield were guilty, in connection with def't Snyder, of the matters alleged in the declaration they were guilty in different and unequal degrees—that is to say, the defendant Snyder was the chief wrong-doer, and there were circumstances of aggravation proven against him which did not exist
185 as to the defendants Stanley and Springfield, and the evidence also tended to show circumstances in mitigation as to defendants Springfield and Stanley which did not apply to defendant Snyder.

Among other things not excepted to the court charged the jury that to entitle the plaintiff to a verdict against all the def'ts as joint trespassers, it must appear from the evidence in the case that they all acted in concert in committing the trespasses complained of; that those who confederate to do an unlawful act are to be held guilty of the whole; if some of the def'ts aided and assisted the others to commit the tort or assented to the tort committed by the others they would all be jointly liable, and if all the def'ts were found to be guilty jointly of the torts alleged and complained of in the declaration, each and all of the def'ts would be liable for the en-
186 tire damages sustained by the plaintiff; that if they believed all the def'ts to be jointly guilty of the trespass or wrongs complained of, each def't would be liable for the whole damages inflicted on the plaintiff, although one of the def'ts might have been guilty of greater aggravation than the others, they might consider what damages, actual and punitive, which, according to previous instructions not excepted to, the def'ts ought to pay to plaintiff, and that sum they ought to return as their solid verdict jointly against all the def'ts.

To each divisible part of this part of the charge each of the def'ts duly excepted, but were relieved by the court from stating the grounds and causes of their several exceptions.

Each of the def'ts tenders this as his bill of exceptions in
187 this cause in open court to the judge presiding, when the court signed and sealed and allowed the same and ordered that it be filed as the bill of exceptions of each of the def'ts, on this the 27 day of Octo., 1884.

(Signed) JNO. BAXTER, [SEAL.]
Circuit Judge, &c.

Endorsed: Damages. No. 74. In the U. S. circuit, at Chattanooga. Geo. H. Thomas *vs.* H. J. Springfield *et als.* Bill of exceptions. Filed Oct. 28, 1884. A. R. Humes, clerk U. S. c'r. c't.

Supersedeas & Appeal Bond.

Know all men by these presents that we, H. J. Springfield, C. E. Stanley, and C. C. Snyder and H. B. Springfield, C. E. Shelton, & H. C. Beck, Joe D. Fonte, are held and firmly bound unto Geo. H. Thomas in the full and just sum of twelve thousand dollars, to be paid to the said Geo. H. Thomas or his certain attorney, executors, administrators, or assigns; to which payment, well and truly
188 to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 22nd day of October, in the year of our Lord one thousand eight hundred and eighty-four.

Whereas lately, at a term of the circuit court of the United States for the southern division of the eastern dist. of Tenn., in a suit depending in said court between Geo. H. Thomas, plaintiff, and H. J. Springfield, C. E. Stanley, and C. C. Snyder, defendants, a judgment was rendered against the said H. J. Springfield, C. E. Stanley, and

C. C. Snyder in favor of the said Geo. H. Thomas, on the 9th day of Oct., 1884, for seven thousand dollars besides costs, and the said H. J. Springfield, C. E. Stanley, & C. C. Snyder, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation, directed to the said Geo. H. Thomas and his attorneys of record, Wheeler & Marshall, Elder & White, citing and admonishing
189 them to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such that if the said H. J. Springfield, C. E. Stanley, & C. C. Snyder shall prosecute their said writ of error to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

H. J. SPRINGFIELD. [SEAL.]
C. E. STANLEY. [SEAL.]
C. C. SNYDER. [SEAL.]
H. B. SPRINGFIELD. [SEAL.]
C. E. SHELTON. [SEAL.]
H. C. BECK. [SEAL.]
JOE D. FONTE. [SEAL.]

Sealed and delivered in presence of—
W. G. McADOO, Jr.,
Deputy Clerk U. S. Circuit Court.

Approved by and ordered to operate as a supersedeas Oct. 27, 1884.
JNO. BAXTER,
Circuit Judge.

Filed Oct. 28, 1884.
A. R. HUMES,
Clerk U. S. Cr. Ct.

190 State of Tennessee, *Hamilton County:*

Personally appeared before me H. B. Springfield, one of the sureties on the bond, hereto attached, of C. C. Snyder, H. J. Springfield, and C. E. Stanley, executed by them to obtain a writ of error & supersedeas from the judgment against them rendered by the circuit court of the United States for the southern division of the eastern district of Tennessee, in the case of George H. Thomas against them, and made oath in due form of law that he is the owner in his own right of real estate situate in Hamilton county, Tennessee, worth six thousand dollars; that the same is not incumbered in any way, and is liable to execution. Affiant states that he is not in debt in any way and, besides the lands above set forth, he owns at least two thousand dollars' worth of notes and other personal property
191 and assets, and he owns a valuable tract of land in the State of Alabama.

H. B. SPRINGFIELD.

Sworn to & subscribed before me Oct. 22, 1884.

A. R. HUMES, *Clerk,*
By W. G. McADOO, Jr.,
Dep't. Clerk.

Filed Oct. 28, 1884.

A. R. HUMES,
Clerk U. S. C'r. C't.

State of Tennessee, *Hamilton County:*

Personally appeared before the undersigned, Wm. G. McAdoo, dep. clerk of the circuit court of the United States for the southern division of the eastern district of Tennessee, H. C. Beck and C. E. Shelton, citizens of Hamilton county, Tennessee, sureties on the bond of C. C. Snyder, C. E. Stanley, and H. J. Springfield, hereto attached, executed to obtain writ of error and supersedeas from the judgment of said United States circuit court against them in the case of George H. Thomas against them, and made oath as follows:

192 The said H. C. Beck makes oath that he is worth, over and above all liabilities and exemptions, at least eight thousand dollars; that he has four thousand dollars' worth of real estate which is not encumbered in any way, and that he has other real estate worth ten thousand dollars, which is encumbered to the extent of three thousand five hundred dollars.

The said C. E. Shelton makes oath that he owns unincumbered real estate, situate in Hamilton and James counties, Tennessee, worth, over and above the homestead exemption, six thousand dollars. The real estate of the said H. C. Beck, hereinbefore referred to, is situate in the county of Hamilton and in the city of Chattanooga. This affidavit is made to accompany said bond and to satisfy the court of the solvency of the sureties.

The said C. E. Shelton has no liabilities and there are no encumbrances on his lands at all.

H. C. BECK.
C. E. SHELTON.

193 Sworn to & subscribed before me Oct. 25, 1884.

W. G. McADOO, Jr.,
Deputy Clerk, &c.

Filed Oct. 28, 1884.

A. R. HUMES,
Clerk U. S. Cr. Ct.

State of Tennessee, *Hamilton County:*

Personally appeared before me Joe D. Fonte, one of the securities on the bond hereunto attached of C. C. Snyder, H. J. Springfield, and C. E. Stanley, executed by them to obtain a writ of error and supersedeas from the judgment against them, rendered by the circuit court of the United States for the southern division of the eastern district of Tennessee, in case of George H. Thomas against them, and made oath in due form of law that he is the owner in his own right of real estate, situated in Loudon county, Tennessee, worth

five thousand dollars ($5,000.00); that the same is not incumbered in any way and is liable to execution. Affiant also states
194 that he is the owner of eight thousand dollars' ($8,000.00) worth of personal property, consisting of a stock of drugs, solvent notes, and other personal property, over and above liabilities.

JOE D. FONTE.

Sworn to and subscribed before me Oct. 25th, 1884.

A. R. HUMES, *Clerk*,
By W. G. McADOO, Jr., *Dept. Clk.*

Filed Oct. 28, 1884.

A. R. HUMES,
Clerk U. S. Cr. Ct.

UNITED STATES OF AMERICA, } ss:
Clerk's Office, Circuit Court, Eastern District of Tennessee, }

I, A. R. Humes, clerk of the circuit court of the United States for the eastern district of Tennessee and southern division thereof, do hereby certify that the foregoing one hundred and ninety-three and one-half (193½) pages contain a full, true, and perfect transcript of the record and proceedings had in the case in
195 the caption mentioned, viz., George H. Thomas *versus* H. J. Springfield, C. E. Stanley, and C. C. Snyder, docket No. 74, in said court; and I do further certify that the original writ of error and citation are hereto attached and forwarded with this transcript.

In testimony whereof I have hereunto subscribed my name officially and affixed the seal of said court, at Chattanooga, within said district, this 21st day of September, A. D. 1885.

{ The Seal of the United States Circuit Court, District of East Tenn., Southern Div'n. }

A. R. HUMES, *Clerk*,
By W. G. McADOO, Jr.,
Deputy Clerk.

Cost of transcript, 249 folios, @ 10c.	$24 90
Certificate and seal	35
Total	$25 25

Received of defendants Springfield and Stanley twenty-five & $\frac{25}{100}$ dollars in full of costs for the foregoing transcript this Oct. 9, 1885.

A. R. HUMES, *Clerk*,
By W. G. McADOO, Jr.,
Deputy Clerk.

196 UNITED STATES OF AMERICA, ss:

The President of the United States to the honorable the judges of circuit court of the United States for the southern division of the eastern district of Tennessee, Greeting:

Because in the record and proceedings as also in the rendition of the

judgment of a plea which is in the said circuit court, before you, between Geo. H. Thomas, plaintiff, and H. J. Springfield, C. E. Stanley, & C. C. Snyder, defendant, a manifest error hath happened, to the great damage of the said H. J. Springfield, C. E. Stanley, & C. C. Snyder, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 27 day of October, in the year of our Lord one thousand eight hundred and eighty-four.

{ The Seal of the United States Circuit Court, District of East Tenn., Southern Div'n. }

A. R. HUMES,
Clerk of the Circuit Court of the United States for the Southern Division of the Eastern District of Tennessee,

By W. G. McADOO, Jr.,
Deputy Clerk.

Allowed by—

JNO. BAXTER,
Circuit Judge, &c.

[Endorsed:] Filed Oct. 28, 1884. A. R. Humes, clerk U. S. c'r. c't.

197 The United States of America to Geo. H. Thomas and your attorneys of record, viz., Wheeler & Marshall, Elder & White, Greeting:

You are hereby cited and admonished to be and appear at a supreme court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the southern division of the eastern district of Tennessee, wherein H. J. Springfield, C. E. Stanley, & C. C. Snyder are plaintiffs in error and you, the said Geo. H. Thomas, is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief justice of the

Supreme Court of the United States, this 27 day of October, in the of our Lord one thousand eight hundred and eighty-four.

JNO. BAXTER,
Circuit Judge, &c.

198 On this — day of ——, in the year of our Lord one thousand eight hundred and eighty-—, personally appeared —— —— before me, the subscriber, —— —— and makes oath that he delivered a true copy of the within citation to —— ——.

Sworn to and subscribed the — ——, A. D. 188–.

We hereby acknowledge due and legal service of the within citation this Oct. 28, 1884.

ELDER & WHITE,
WHEELER & MARSHALL,
Att'ys for Geo. H. Thomas.

[Endorsed:] Filed Oct. 28, 1884. A. R. Humes, clerk U. S. c'r. c't.

Endorsed on cover: E. Tennessee C. C. U. S. No. 388. H. J. Springfield, C. E. Stanley, and C. C. Snyder, plaintiffs in error, *vs.* George H. Thomas. Filed October 13, 1885.

136-650
(6)

FILED
MAR 3 1890

IN THE

Supreme Court of the United States.

October Term, 1889.

HENRY T. THOMES
vs.
JAMES A. MURRAY, SILAS F. KING AND MARCUS DALY. } No. 519.

EXTRACTS FROM RECORD.

SILAS F. KING, MARCUS DALY AND JAMES A. MURRAY, PLAINTIFFS,
vs.
SAMUEL LEWIS, HENRY THOMES ET AL. (11 OTHERS).

The plaintiffs in the above-entitled action complain of the defendants in said action, and allege—

That they are now and for a long time prior hereto have been the owners of and entitled to the possession of that certain tract or parcel of land situate in the county of Silver Bow, in the Territory of Montana, and known and described as follows: That certain lode or quartz mining claim known as the Silver King Lode Claim in the Summit Valley Mining District, and bounded as follows, to wit: * * * , containing an area of six and sixty-four one hundred acres.

That while the plaintiffs were so seized and possessed, the defendants afterwards entered into the possession of the said premises and took the possession thereof from the plaintiffs, and now unlawfully withhold the possession thereof from plaintiffs, to their damage in the sum of ten thousand dollars.

Wherefore plaintiffs pray judgment against the said defendants—

1st. For the recovery of the possession of the said demanded premises and for the sum of ten thousand dollars for the withholding the possession thereof. (Folio 4.)

Answer of Henry T. Thomes.

After denying sundry allegations of the plaintiffs' complaint, he says:—

"Defendant, further answering, alleges the facts to be that he is now, and was at the date of the commencement of this action, the owner in possession of that portion of the property described in plaintiffs' complaint, which is particularly described as follows, to wit: Lots No. eight (8) and nine (9), in block No. nine (9), in Butte City, in Silver Bow County, Montana Territory * * * * * * * Defendant, further answering, disclaims any title to or interest in or possession of any part or portion of the ground described in plaintiffs' complaint save and except the portion thereof above described and claimed." (Folio 6 and 7.)

Verdict for plaintiffs for the recovery of the possession of the premises in controversy and one dollar damages. (Folio 12.)

IN THE SUPREME COURT U. S.

OCTOBER TERM, 1889.

JEFFERSON McCAULEY
vs.
SILAS F. KING, MARCUS DALY AND JAMES A. MURRAY. } No. 520.

The complaint in this case is the same as that in the preceeding case of Thomes *v.* Murray *et al.*, No. 519. (Folio 2.)

Supreme Court U.S.
FILED.
MAR 3 1890
JAMES H. MCKENNEY,

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1889.

BENJAMIN C. KINGSBURY
v.
JAMES A. MURRAY, MARCUS DALY, AND SILAS F. KING.
No. 521.

Reply to Motion to Dismiss.

In reply to the defendant's motion to dismiss, the plaintiff in error submits that the amount in controversy in said case exceeds the sum or value of five thousand dollars, exclusive of costs, as is shown by the affidavit herewith submitted.

Plaintiff in error therefore asks that the motion to dismiss be overruled.

S. S. BURDETT,
Attorney for Plaintiff in Error.

IN THE SUPREME COURT OF THE UNITED STATES.

BENJAMIN C. KINGSBURY, Plaintiff in Error,
v.
SILAS F. KING *et al.*, Defendants in Error.

STATE OF MONTANA,
County of Silver Bow, } ss:

Edwin H. Irvine, F. F. Irvine, John A. Cannon, James W. Murphy, and Robert M. Cobban, being first duly sworn, says on oath, each for himself, that he is now and for some time since has been a real estate agent and broker in Butte City, in Silver Bow county, State of Montana; that affiant is and has been for a long time since well acquainted with the values of real estate in Butte City, in Silver Bow county, State of Montana; that affiant is well acquainted with the ground described in the complaint of the plaintiffs, Silas F. King *et al.*, and known as and called the Silver King lode claim; that the said lode claim is situated partly within the limits of the city of Butte, and has been occupied for a long time since with numerous residences; that in the opinion of affiant the said ground included within the limits of the said Silver King lode claim, and at the date of the judgment herein rendered, to wit, October 22, 1886, was of the reasonable value of twenty thousand dollars at least.

JOHN A. CANNON.
ROBERT M. COBBAN.
E. H. IRVINE.
JAMES W. MURPHY.
F. F. IRVINE.

Subscribed and sworn to before me this 20th day of February, 1890.

[SEAL.]

JOHN F. FORBIS,
Notary Public.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1889.

JEFFERSIN McCAULEY

vs.

SILAS F. KING, MARCUS DALY, AND JAMES A. MURRAY.

No. 520.

Reply to Motion to Dismiss.

In reply to the defendant's motion to dismiss, the plaintiff in error submits that the amount in controversy in said case exceeds the sum or value of five thousand dollars, exclusive of costs, as is shown by the affidavits herewith submitted.

Plaintiff in error therefore asks that the motion to dismiss be overruled.

S. S. BURDETT,
Attorney for Plaintiff in Error.

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

JEFFERSIN McCAULEY, Plaintiff in Error,
v.
SILAS F. KING, MARCUS DALY, and JAMES A. MURRAY, Defendants in Error.
No. 520.

STATE OF MONTANA,
County of Silver Bow, } *ss:*

Jeffersin McCauley, being first duly sworn, on oath doth depose and say, that he is the above-named plaintiff in error.

That he is now and was at the date of the judgment of the Supreme Court of Montana Territory from which a writ of error was taken in this cause to the Supreme Court of the United States.

That he knows the value of the property specified in his answer in this cause.

That the same is lot ten (10) in block seven (7) in Butte City, Silver Bow county, Montana.

That the value of said lot and the permanent improvements thereon was at the date of the rendition of said judgment herein in the said Supreme Court of Montana Territory, and is now over five thousand dollars, to-wit, fifty-five hundred dollars.

That there is on said lot a good and substantial brick dwelling-house of eight rooms, and fences and out-houses.

That the value of the surface ground of the premises described in the complaint of the defendants in error in this cause, and for the possession of which plaintiff in error was sued in this cause, is over fifty thousand dollars.

And further affiant sayeth not.

JEFFERSIN McCAULEY.

Subscribed and sworn to before me, this eighth day of February, A. D. 1890.

[SEAL.] WILL L. CLARK,
Clerk of the District Court of the Second Judicial District of the State of Montana.

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

JEFFERSIN MCCAULEY, Plaintiff in Error,
v.
SILAS F. KING, MARCUS DALY, and JAMES A. MURRAY, Defendants in Error.
No. 520.

STATE OF MONTANA, *County of Silver Bow*, } *ss:*

John A. Cannon and James W. Murphy, being first duly sworn, on oath doth depose and say, each for himself, that he is over the age of 21 years, and a resident of Butte City, Silver Bow county, Montana.

That he knows lot ten (10) in block seven (7) in Butte City, Silver Bow county, Montana.

That there is on said lot a good substantial brick house with fence and out-houses.

That on the first day of January, 1887, and from that time to this, the value of said lot and substantial improvements on the same were in excess of five thousand dollars.

That they would estimate the value of the same to be about fifty-five hundred dollars.

That he is acquainted with the value of real estate in said Butte City, and has been a dealer in the same.

That the value of all the property specified in the complaint in this cause, to wit, the Silver King lode premises, excluding any value that may be in any mineral-bearing vein, is over fifty thousand dollars.

JOHN A. CANNON.
JAMES W. MURPHY.

Subscribed and sworn to before me, this eighth day of February, A. D. 1890.

[SEAL.] WILLIAM J. NAUGHTEN,
Notary Public.

Office Supreme Court U. S.
FILED.
MAR 7 1890
JAMES H. McKENNEY,
CLERK.

IN THE

Supreme Court of the United States.

H. T. THOMAS, PLAINTIFF IN ERROR,

vs.

SILAS F. KING, MARCUS DALY, JAMES D. MURRAY,
DEFENDANTS IN ERROR.

AFFIDAVIT.

STATE OF MONTANA,
County of Silver Bow, } ss:

John E. Lloyd, being first duly sworn, on his oath says that he is a resident of the city of Butte, Silver Bow county, Montana; that he is familiar with the location and situation of lots Nos. 8 and 9, in block No. 9, in the town site of Butte, the same being located in the Silver King lode mining claim; that he is familiar with the value and prices of the real estate in the said city of Butte, and especially with the value of said lots 8 and 9, in block 9, and affiant says that the said lots are worth the sum of $5,000 and more.

JOHN E. LLOYD.

Sworn to before me and signed in my presence this 24th day of February, A. D. 1890.

[SEAL.]

GEO. W. SPROULE,
Notary Public, Montana.

STATE OF MONTANA, }
County of Silver Bow, } *ss:*

I, Will. L. Clark, clerk of the second judicial district court of the State of Montana in and for the county of Silver Bow, the same being a court of record, do hereby certify that George W. Sproule is a duly appointed, acting, and qualified notary public within and for the county of Silver Bow, State of Montana; that his commission was in full force at the date of the execution of the annexed instrument; that I verily believe his signature thereto as such notary public is genuine, and that all his acts as such notary public are entitled to full faith and credence.

Witness my hand and the seal of said court hereto affixed this 24th day of February, 1890.

[SEAL.] WILL. L. CLARK, *Clerk.*

[Endorsed:] Supreme Court U. S. Oct'r term, 1889. No. 519. Henry T. Thomas, pl'ff in error, *vs.* Jas. A. Murray *et al.* Affidavit on part of pl'ff in error as to value of matter in controversy.

[Stamped:] Office Supreme Court U. S. Filed Mar. 7, 1890. James H. McKenney, clerk.

IN THE SUPREME COURT OF THE UNITED STATES.

H. T. THOMAS, Plaintiff in Error,
vs.
SILAS F. KING, MARCUS DALY, JAMES D. MURRAY, Defendants in Error.
} Affidavit.

STATE OF MONTANA,
County of Silver Bow, } *ss:*

Harry Nicholls, being first duly sworn, on his oath says that he is a resident of the city of Butte, Silver Bow county, Montana; that he is familiar with the location and situation of lots Nos. 8 and 9, in block No. 9, in the town site of Butte, the same being located in the Silver King lode mining claim; that he is familiar with the value and prices of the real estate in the said city of Butte, and especially with the value of said lots 8 and 9, in block 9; and affiant says that the said lots are worth the sum of $5,000.00 and more.

HARRY NICHOLLS.

Sworn to before me and signed in my presence this 24th day of February, A. D. 1890.

[SEAL.] GEO. W. SPROULE,
Notary Public.

STATE OF MONTANA,
County of Silver Bow, } *ss:*

I, Will. L. Clark, clerk of the second judicial district court of the State of Montana in and for the county of Silver Bow, the same being a court of record, do hereby certify that George W. Sproule is a duly appointed, acting, and qualified notary public within and for the county of Silver Bow, State of Montana; that his commission was in full

force at the date of the execution of the annexed instrument; that I verily believe his signature thereto as such notary public is genuine, and that all his acts as such notary public are entitled to full faith and credence.

Witness my hand and the seal of said court hereto affixed this 24th day of February, 1890.

[SEAL.] WILL. L. CLARK, *Clerk.*

[Endorsed:] Sup. Court U. S. Oct'r term, 1889. No. 519. Henry T. Thomas, pl'ff in error, *vs.* Jas. A. Murray & *al.* Aff'davit on part of pl'ff in error as to value of matter in controversy.

[Stamped:] Office Supreme Court U. S. Filed Mar. 7, 1890. James H. McKenney, clerk.

IN THE

Supreme Court of the United States.

HENRY T. THOMES *v.* JAMES A. MURRAY, SILAS F. KING, AND MARCUS DALY.	*No.* 519.
JEFFERSON McCAULEY *v.* SILAS F. KING, MARCUS DALY, AND JAMES A. MURRAY.	*No.* 520.
BENJAMIN C. KINGSBURY *v.* JAMES A. MURRAY, MARCUS DALY, AND SILAS F. KING.	*No.* 521.

Affidavit of Louis Lienemann in support of Defendants' Motion to Dismiss Writs of Error herein.

STATE OF MONTANA, }
County of Silver Bow, } *ss:*

LOUIS LIENEMANN, being duly sworn, deposes and says: I am 38 years of age, and have no interest in the above-

entitled suits; I am a resident of the city of Butte, Montana; I own two lots in Block Number Seven, in the town-site of the city of Butte aforesaid, formerly the town of Butte; I bought those lots in 1884, and have lived on one of them ever since; in the year 1887, and more particularly in the month of January of said year, none of the lots in said Block Number Seven were worth over one thousand dollars; since then, and particularly within one year past, the values of real estate in the city of Butte, aforesaid, have taken a great rise, and, in consequence, lots in said block are now worth considerably more.

LOUIS LIENEMANN.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of Second Judicial District Court of State of Montana.

AFFIDAVIT OF GUSTAVE A. KORNBERG.

STATE OF MONTANA, }
County of Silver Bow, } *ss:*

GUSTAVE A. KORNBERG, being duly sworn, deposes and says:

I am 29 years of age, a resident of the city of Butte, Silver Bow county, Montana, and have no interest in the above-entitled suits.

I have lived in said city of Butte for six years last past. I am a Deputy United States Mineral Surveyor. I annex to this affidavit a copy of a portion of the official plat of the town-site of the city (formerly town) of Butte aforesaid, showing Blocks 7, 8, and 9, in said town-site, with the streets

and alleys on which the lots in said blocks front or abut; showing, also, the numbers of the lots and the width of them, also, the lines of the "Silver King" claim. This plat is a correct copy of said official plat, as far as it goes.

I am well acquainted with the ground covered by said blocks, and have been for several years. I know the value of real estate in the city of Butte aforesaid, and particularly in the vicinity of said blocks. I own property in that vicinity, and at one time negotiated for the purchase of lots in Block No. 8.

Lots 4, 5, and 6, in said Block 7, have a total frontage of 100 feet. The outside value of said lots to day is less than $3,000, and real estate in said city of Butte is higher now than it ever has been. In 1886, 1887, and 1888, said three lots together were not worth over $1,500 at any time.

Lot 10, in said Block 7, in the town site of said city of Butte, I consider worth to-day, at the outside, $1,500. The improvements on said lot I consider to be worth about $1,500, making $3,000 for the lot and the improvements, and this is the highest value said lots and improvements ever have had.

Lots 8 and 9, in Block 9, in the town-site of said city of Butte, are worth at this day, in my opinion, $1,000.00 each, and all of the improvements thereon are worth $1,200.00 at the outside, making a total of $3,200.00 for the two lots and the improvements. A wing of a house on Lot No. 7 aforesaid, Block 9, extends over on to Lot 8 a few feet: I have not included this wing in the foregoing estimate of the value of the improvements. If it were to be included, it would add about $500.00 to it.

In the year 1887 said Lots 8 and 9, and the improvements, would have been worth $1,000.00 less.

The value of all of said above-mentioned lots was as high in 1887 as it was at any time prior thereto, if not higher.

Said Lots 4, 5, and 6, in Block 7, are now, and were at all times in question, vacant and unimproved.

GUSTAVE A. KORNBERG.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,

Clerk of the Second Judicial District Court of the State of Montana.

St.
St.
Copper
St.
SILVER KING
LOT 144
8
9
Quartz
St.
Washington
Idaho

AFFIDAVIT OF JOHN H. CURTIS.

State of Montana, } ss:
County of Silver Bow, }

John H. Curtis, being duly sworn, deposes and says: I am 50 years of age, and a resident of the city of Butte, Silver Bow county, Montana. I have no interest in the above-entitled suits.

I have lived in said city of Butte for over eight years, and during that time have been actively and extensively engaged in the real estate business—buying, selling, and leasing real estate in said city of Butte and vicinity; and I own a large amount of real property in said city.

I am well acquainted with Lots 4, 5, and 6, in Block 7; Lot 10, in Block 7; and Lots 8 and 9, in Block 9; all in the town-site of said city (formerly town) of Butte. I have had charge, as agent, of property in the vicinity of said lots, and have also bought and sold property in that vicinity.

In the year 1887, particularly in the month of January of said year, the outside value of said lots, in my opinion, was as follows, to wit:

Lots 4, 5, and 6, in Block 7, $250.00 each. Said lots were then, and still are, vacant and unimproved.

Lot 10, in Block 7, $400.00; the improvements thereon $1,000.

Lots 8 and 9, in Block 9, less than $900.00 each.

Since 1887 the value of said properties has greatly increased, but would not now, however, exceed double the value of 1887, so that, by allowing double the value of 1887 aforesaid, the present value of said properties would be as follows, to wit:

Lots 4, 5, and 6, in Block 7, $500.00 apiece, or $1,500.00 for the three.

Lot 10, in Block 7, $800.00 for the lot; $1,000.00 for the improvements, making a total of $1,800.00.

Lots 8 and 9, in Block 9, $1,800.00 each, and $900.00 for the improvements thereon, making a total of $4,500.00.

JOHN H. CURTIS.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of the Second Judicial District Court
of the State of Montana.

AFFIDAVIT OF SILAS F. KING.

STATE OF MONTANA, } ss:
County of Silver Bow, }

SILAS F. KING, being duly sworn, deposes and says:

I am one of the above-named defendants in error.

The mining title to the west ten feet of Lot 8, in Block 9, in the town-site of the city (formerly town) of Butte, Silver Bow county, State of Montana, to wit: The title of the "Silver King" claim to the ground covered by said portion of said lot was sold in May, 1885, to one Charles S. Eltinge by James A. Murray, one of my co-defendants in error in the above-named cases, acting in the premises and the representative of all three of the above-named defendants in error, and in whose name the title to the "Silver King" claim stood; and I understand that the said Eltinge also bought out the interests of the surface claimants, so that the west ten feet of said Lot 8, in Block 9, are not now in question in these suits.

I see that in 1887 and 1888 Lot 11, in Block 7, in the town-site of the said city of Butte, was assessed to Jefferson

McCauley, plaintiff in error in the above-entitled case No. 520. Said Lot 11 was never owned, occupied, or claimed by said McCauley; and ever since the year 1882 said lot has been owned and occupied by John T. Baldwin, Esquire, an attorney at law of the city of Butte aforesaid. There must, therefore, have been a mistake in the listing of said McCauley's property; and the lot intended to have been listed in his name must have been Lot 10, in Block 7, and not Lot 11.

SILAS F. KING.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of Second Judicial District Court
of State of Montana.

AFFIDAVIT OF FRANCIS E. W. PATTEN.

STATE OF MONTANA, }
County of Silver Bow, } ss:

FRANCIS E. W. PATTEN, being duly sworn, deposes and says: I am 66 years of age, and a resident of the city of Butte, Silver Bow county, Montana. I have no interest in the above-entitled suits.

I have resided at said city of Butte for about 9 years; and for the last 6 years have been engaged in the real estate and insurance business, buying, selling, and leasing property, etc.

I am acquainted with the properties described as Lots 4 5, and 6, in Block 7; Lot 10, in Block 7; and lots 8 and 9, in Block 9; all in the town-site of the said city (formerly town) of Butte.

In my opinion Lots 4, 5, and 6, in Block 7, were worth, at the outside, $250 apiece in the year 1887, and particularly in the month of January of said year.

Lot 10, in Block 7, was worth, at and during said time, about $400 for the lot; the improvements thereon were worth about one thousand dollars. The improvements now on said lot are the same that were there in 1887.

Lots 8 and 9, in Block 9, were worth at said times $750 apiece, at the outside; and the improvements thereon were worth $900.

Since that time, and particularly within about a year past, the value of real estate, that is, the value of the lots apart from the improvements, has increased considerably, perhaps to double what it was in 1887; and by doubling the above figures the outside value of said lots at the present time would be arrived at.

The value of said lots was as high in 1887 as it was at any time prior thereto, if not higher.

FRANCIS E. W. PATTEN.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of the District Court of the Second Judicial District of the State of Montana.

AFFIDAVIT OF FRANK P. CAREY.

STATE OF MONTANA, }
County of Silver Bow, } *ss:*

FRANK P. CAREY, being duly sworn, deposes and says: I am 36 years of age, and a resident of the city of Butte, Sil-

ver Bow county, Montana. I have no interest in the above-entitled suits.

I have lived in said city of Butte during most of the time for the past fourteen years, and have been engaged in mining.

I am now living in a house on Lot 10, in Block 7, in the town-site of the said city (formerly town) of Butte, which I have leased from Jefferson McCauley, plaintiff in error in the above-entitled cause No. 520. The improvements on said lot consist of a one-story brick-veneered house, a wood shed, and some fencing. It would cost about $1,500.00, in my opinion, to build these improvements at this time, and their present value is about $1,200.00.

In my opinion said lot is not worth over $1,000.00, and the lot and improvements together not over $2,200.00.

The value of real estate in said city of Butte prior to the year 1887 was lower than it was in said year of 1887, and lower than it has been at any time since 1887.

FRANK P. CAREY.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of the Second Judicial District Court
of the State of Montana.

AFFIDAVIT OF WILLIAM T. CATON.

STATE OF MONTANA,)
County of Silver Bow,) ss:

WILLIAM T. CATON, being duly sworn, deposes and says:

I am 25 years of age, a citizen of the United States, and a resident of the city of Butte, Silver Bow county, state of Montana. I have no interest in the above-named suits.

The annexed writings, in four sheets, purporting to be copies of the assessment lists of Frank B. Thomes, for the years 1887 and 1888, and of Jefferson McCauley, for years 1887 and 1888, were copied by me from the original assessment lists of said persons for said years. At the time I made said copies said originals were in the custody of Martin L. Holland, who then was, and who was in 1887 and 1888, and who now is, the assessor of said county of Silver Bow, State of Montana.

Three of the blank forms used to make said copies were slightly different from the blanks on which the originals were made, and the erasures and interlineations appearing in three of the annexed sheets aforesaid were made for the purpose of making the copies correspond exactly with the originals.

I have carefully compared the said annexed copies with the originals thereof, and have found the same to agree with and be exact copies of said originals.

The two other annexed writings, marked "Extract No. 1" and "Extract No. 2," and purporting to be extracts from the assessment roll of said county of Silver Bow for the year 1889, were made by me from the entries in the original assessment roll aforesaid, in and opposite the names of F. B. Thomes and Jefferson McCauley; said copies agree with the original entries in said assessment roll, and are exact copies therefrom, and were carefully compared by me with said original.

I did not obtain access to the original assessment lists for the year 1889.

I searched through the assessment rolls of said county of Silver Bow for the years 1887, 1888, and 1889 for the name of Henry T. Thomes, plaintiff in error in the above-entitled case No. 519, and said name does not appear.

I also searched through the assessment lists for the years

1887 and 1888, and also through the assessment roll for the year 1889, in order to ascertain the valuation placed on Lots 4, 5, and 6, in Block 7, in the town-site of said city (formerly town) of Butte, in said Silver Bow county, Montana, which lots at one time stood in the name of Benjamin C. Kingsbury, plaintiff in error in the above-entitled suit No. 521, but found that said lots were not listed in his name, and did not find any listing at all of them. I inquired of the County Assessor of said county in whose name said lots were listed, and was told by said assessor that he did not know. I also searched the records of said county in order to ascertain in whose name said lots now stand, but found no record of any transfer from said Kingsbury, and that they still stand in the said records in the name of said Kingsbury.

There is only one city in said Silver Bow County, and only one incorporated town, and that is the city of Butte; and by the word "city," when used locally to designate a place in Silver Bow county aforesaid, is meant the said city of Butte.

WILLIAM T. CATON.

Subscribed and sworn to before me, this 12th day of March, 1890.

[SEAL.] WILL. L. CLARK,
Clerk of Second Judicial District Court
of State of Montana.

LIST OF TAXABLE PROPERTY OF SILVER BOW COUNTY, M. T.

You do solemnly swear that you will well and truly answer all questions in the following list, and that it embraces all moneys, goods, live stock, credits, and all other property of any description whatever, owned or held by you as

principal, partner, agent, or representative, as the case may be, according to the best of your knowledge—so help you God.

(Sig.) FRANK B. THOMES.

Subscribed and sworn to before me, this 22d day of July, 1887.

—— ——,

Assessor Silver Bow county, Montana Territory.

What is your post-office address?—Butte.

How many acres of land do you own? If surveyed, describe them as per Government survey. If unsurveyed, some other description, and value.

What are the improvements on same, and value?

How many town lots do you own? Describe them by number of lots, blocks, and name of town.—Lots 8 and 9, block 9. Value, $1,000.

What are the improvements on same, and value?

——

You do solemnly swear that you will well and truly answer all questions in the following list, and that it embraces all moneys, goods, live stock, credits, and all other property, of any description whatever, owned or held by you as principal, partner, agent, or representative, as the case may be, according to the best of your knowledge—so help you God.

(Sig.) F. B. THOMES.

Subscribed and sworn to before me, this 1st day of February, 1888.

(Sig.) M. L. HOLLAND,

Assessor Silver Bow county, M. T.

By —— ——, *Deputy Assessor.*

What is your postoffice address?

How many acres of land do you own? If surveyed, describe them as per Government survey. If unsurveyed, some other description.

What are the improvements on same?

How many town lots do you own? Describe them by number of lots, blocks, and name of town.—Lot 9 and E. 30 feet Lot 8, Block 9. $800.

What are the improvements on same?—Dwelling-house. $700.

TERRITORY OF MONTANA, }
County of Silver Bow, } *ss:*

Jefferson McCauley, being duly sworn, says, I do solemnly swear that I will well and truly answer all questions in the following list, and that it embraces all moneys, goods, live stock, credits, and all other property of any description whatever, owned or held by me as principal, partner, agent, or representative, as the case may be, and that the value, as therein stated, is the true value according to my best knowledge—so help me God.

(Sig.) JEFFERSON McCAULEY.

Subscribed and sworn to before me, this 18th day of July, 1888.

(Sig.) M. L. HOLLAND,
Assessor Silver Bow county, Montana Territory.

What is your post-office address?—Melrose.

How many acres of land do you own? If surveyed, describe them as per Government survey. If unsurveyed, some other description, and value—S. 14, 15, & 23, T. 2 S., R. 9 W., No. 600, $3,000.

What are the improvements on same, and value?—Dwelling, fencing, &c.; $1,000.

How many town lots do you own? Describe them by number of lots, blocks, and name of town and value.—Lot 11, Block 7, Butte, $400.

What are the improvements on same, and value?—One dwelling, $1,200.

You do solemnly swear that you will well and truly answer all questions in the following list, and that it embraces all moneys, goods, live stock, credits, and all other property, of any description whatever, owned or held by you as principal, partner, agent, or representative, as the case may be, according to the best of your knowledge—so help you God.

(Sig.) JEFF. McCAULEY.

Sworn and subscribed to before me, this 8th day of June, 1887.

(Sig.) M. L. HOLLAND,
Assessor Silver Bow county, M. T.

What is your post-office address?—Melrose.

How many acres of land do you own? If surveyed, describe them as per Government survey. If unsurveyed, some other description and value.

What are the improvements on same, and value?

How many town lots do you own? Describe them by number of lots, blocks, and name of town.—Lot 11, Block 7, Butte, $400.

What are the improvements on same? House, $1,200.

What is your post-office address?—Jefferson McCauley.

How many acres of land do you own? If surveyed, de-

scribe them as per Government survey. If unsurveyed, some other description.

What are the improvements on same?

How many town lots do you own? Describe them by number of lots, blocks, and name of town.—Lot No. 10, in block No. 8, Butte, Montana. $500.

What are the improvements on same?—Dwelling house. $1,200.

Total value, $1,700.

What is your post-office address?—F. B. Thomes, Butte, Montana.

How many acres of land do you own? If surveyed, describe them as per Government survey. If unsurveyed, some other description.

What are the improvements on same?

How many town lots do you own? Describe them by number of lots, blocks, and name of town.—Lot No. 9 and east 30 feet of Lot No. 8, in Butte, Block 9. $1,400.

What are the improvements on same?—Dwelling house. $900.

Total value, $2,300.

Brief.

The judgments in these cases were rendered on the 22d of October, 1886, and the question is, What was the value of the property at that time? The case of *Thomas* v. *King et al.*, No. 519, involves title to Lots 8 and 9, in Block 9. John E. Loyd and Harry Nicholls each swears "that the said lots are worth the sum of $5,000.00 and more." The affidavits are each sworn to on the 24th day of February, 1890.

No proof at all filed by plaintiffs in error as to the value at the time the judgment was rendered. On the other hand, the defendants in error have filed the affidavits of Gustav A. Kornberg, who says that said Lots 8 and 9, in Block 9, are now worth $3,200, but in 1887 were worth $1,000 less, making their then value $2,200. Also the affidavit of John H. Curtis, who fixes their value in 1887 at less than $900 each. He says that since 1887 values of lots in Butte have greatly increased. Also the affidavit of Francis E. Patten, who says their value in 1887 was not more than $2,400 at the outside. There is also filed a copy of the listment for taxation, made under oath, which shows that said lots were listed for taxation in 1887 at $1,000.

In the case of *Jefferson McCauley* v. *King et al.*, No. 520, involving the title to Lot 10, in Block 7, McCauley himself swears that the value at the time of the rendition of the judgment exceeded $5,000. John A. Cannon and James W. Murphy swear to the same thing.

On the other hand Louis Lienemann swears that the value in 1887 was not more than $1,500. Gustav A. Kornberg swears that its present value is $1,000 at the outside, and that the value now is higher than it ever was before.

John H. Curtis makes the value in 1887 $1,400. He says that values have greatly increased since 1887, and that now the value of said lot is $1,800; Francis E. W. Patten makes the value in 1887 $1,400; Frank P. Carey swears that he is now living on said Lot 10, and that its present value is $2,200, and that all values prior to 1887 were lower than they were in 1887 or have been at any time since. The said lot was listed for taxation in 1887 and 1888 at $1,600.

In the case of *Kingsbury* v. *Murray et al.*, No. 521, title to Lots 4, 5, and 6, in Block 7, was involved. The plaintiff in error has filed the joint affidavit of John A.

Cannon, Robert M. Cobban, E. H. Irvine, James W. Murphy, and F. F. Irvine, who swear that the ground included within the Silver King lode claim was, at the date of the judgment, to wit, October 22, 1886, of the value of $20,000, at least. Now, that lode claim included a great many lots in Butte not in controversy in either of these three cases, No. 519, 520, and 521, as the plat attached to the affidavit of Gustav A. Kornberg, a United States mineral surveyor, shows. The plaintiff in error has furnished no evidence as to the value of these three lots in controversy.

It would, therefore, be safe to dismiss his case without further remark, but the affidavits furnished by defendants in error show that their value was much less than $5,000. Louis Lienemann says not over $3,000. Gustav A. Kornberg says that they are now worth less than $3,000, and in 1886, 1887, and 1888, were worth not over $1,500. John H. Curtis puts their value in 1887 at $250 each, making $750. And Francis E. Patten fixes their value at $750 in 1887.

The weight of evidence in each case is clearly with the defendants in error, and their motion to dismss should be sustained.

WALTER H. SMITH,
Attorney for Defendants in Error.

MARCH 19, 1890.

The answer is the same as in No. 519, except the defendant claims lot No. 10, in block 7, in Butte City. He disclaims as to all else. (Folio 6.)

The verdict is the same as in No. 519. (Folio 12.)

IN THE SUPREME COURT U. S.

OCTOBER TERM, 1889.

BEMJAMIN C. KINGSBURY
vs.
JAMES A. MURRAY, MARCUS DALY AND SILAS F. KING. } No. 521.

The complaint in this case is the same as in No. 519. (Folio 1.)

The answer is the same as in No. 519, except the defendant claims lots No. 4, 5 and 6, in block 7, in Butte City. He disclaims as to all else. (Folio 4.)

The verdict is the same as in No. 519. (Folio 34.)

Brief on Motion to Dismiss.

The said defendants in error in the three cases above mentioned move the court to dismiss each of said causes on the ground that the amount in controversy does not exceed five thousand dollars in either of said causes.

I have printed everything that appears in the record touching values, and there is absolutely nothing showing the value of the premises in controversy except the amount of damages claimed.

That was ten thousand dollars in each case, but the verdict and judgment were for one dollar only. This court has

no jurisdiction. The case is like that of Street *v.* Ferry, 119 U. S. 385, and the motion to dismiss should be sustained.

WALTER H. SMITH,
Atty. for Defendants.

To HIRAM KNOWLES, Esq.,
Atty. for Plaintiffs in Error.

SIR:

You are hereby notified that on Monday the 3d day of March, 1890, at 12 o'clock m., or as soon thereafter as the court can hear the same, I shall move the Supreme Court of the United States to dismiss each of the aforesaid cases being No. 519, 520 and 521, of the October term, 1889, on the ground that the value of the premises in each of said cases does not exceed five thousand dollars.

WALTER H. SMITH,
Atty. for Defendants.

Service of the foregoing extracts from record, brief and notice of motion to dismiss acknowledged this day of January, 1890.